SHRl • JANARDHAN POOJARI; M'adam, the question has been raised about the share capital. That is why we 'nave come up with an amendment. The issuec capital is being r'aised from Rs. 25 'akhs to Rs. one crore and the authorised capital from Rs. one crore to Rs. five rores.

In regard to (he emoluments of the officers and other amenities, we h'ave set up this National Industrial Tribunal which will look into this aspect. We will keep in mind the other suggestions of ithe hon. Member.

Mr. Upendra has made some suggestions. They are very informative and educative. We will keep them in mind. He talked of discrimination. As I said, there is no discrimination. It s a statutory provision. It Was provided for while enacting the law. Now, Madam, the theory of discrimination is made by the employees. The employees of co-operative societies and co-operative banks 'are also doing the same work. Tomorrowi they will also Put forward the same argument. They will say th'at t'ney should also be given. The State Governments are looking after the co-operative societies and the co-operative banks. The point I have made is, what type of work is being done. This is also to be considered. The functioning of the commercial banks and the regional rural banks are quite different. Anyway, National Industrial Tribunal is going to look into this, but they have to function witYiin the parameters of the Act.

ing to the licensing of the branches in the rural areas, It is not true that commercial banks are forbidden from going to the rural areas. Commercial banks come to rural areas also. That is why in the beginning itself made the point that the regional rural branches and the commercial banks should function side by side.

SHRI PARVATHANENI UPENDRA: *"My question is, up to 1985 you bad reserved the expansion for RRBs.

SHRl JANARDHAN POOJARI: We want to give priority to regional rural banks, but that does not mean that we have prohibited commercial banks. Licences were given to commercial banks in rural areas also.

Madam, I have answered some of the points *Of* the hon. Members. Some useful suggestions have been made by Shri Matto and Shri Upendra. I will keep them ia mind.

THE DEPUTY CHAIRMAN: I move:

"That the Bill be passed. "

The motion was adopted.

THE DEPUTY CHAIRMAN: Before we adjourn, we can allow the Minister for Fuiance to move this Direct Tax Laws (Amendment) Bill.

SHRl DIPEN GHOSH: On a point of order.

First of all, you assured us that as soon 'as this Bill was passed, the House will break for lunch. The point is, we have serious points to make before the Bill is introduced.

We do not object to the Bill being taken up after the lunch-break is over. Let the Finance Minister pilot the Bill after the lunch-break.

THE DEPUTY CHAIRMAN; All right. Now the House stands adjourned to meet again at 2. 30 P. M.

The House then adjourned for lunch at forty-seven minutes past one of the clock.

The House reassembled after lunch at half past two of the clock. The Deputy Chairman in the Chair.

THE DIRECT TAX LAWS (AMENDMENT) BTLL, 1987.

THE DEPUTY CHAIRMAN: The Direct Tax Laws (Amendment) Bill. 1987. Shri Narayan Datt Tiwari.

SHRl DIPEN GHOSH (West Bengal): Madam Deputy Chairman, I have a point of order.

SHRl VITHALRAO MADHAVRAO JADHAV (Maharashtra): Without listen ing to him, how can he raise a point of order?

SHRl PARVATHANENI UPENDRA (Andhra Pradesh): Because we know what it is.

SHRl VITHALRAO MADHAVRAO JADHAV: He must introduce the Bill; then only he can raise a point of order.

DR. BAPU KALDATE (Maharashtra); The point of order is 'about introduction itself.

SHRl VITHALRAO MADHAVRAO JADHAV; That was not made clear before.

SHRl DIPEN GHOSH: I wish you be in the C'hair and intervene.

SHRl VITHALRAO MADHAVRAO JADHAV: No, no, because you started speaking without listening to him, that 'is why I said "wh'at is this?"

SHRl DIPEN GHOSH: Madam, this Direct Tax Laws (Amendment) Bill, 1987, as passed by the Lok Sabha, was circulated to the Members of the R'ajya Sabha only this morning. This is a 150-page Bill and this is an Amendment Bill. So even for preparing to take part in the discussion on this amending Bill, one re- -quires sufficient time to read the proposed amendment clause in the background of the original Act, clause by clause. That t>me even the Members of Rajya Sabha could not get.

Mad'am, this is a very important Bill and it was also discussed in the Business Advisory Committee. If the Government has any important Bill to legislate and pass t'hrough the legislative process, then they should make a plan a priority and they should not bring, it on the l'ast date at the last moment. Every time we have been confronted with this situation and every time we have been raising objection to it. This is the way Government is taking the Parliament for a ride. So I object. Let it be withheld, let it be given for circulation and let it be taken during the next session.

We also made it known to the Chain-man. I made it known to him yesterday also when we presumed that this would be done. So this morning I made it known to the Chairman.

THE DEPUTY CHAIRMAN; You have made your point clear.

SHRI PARVATHANENI UPENDRA; It is clear 'o you, Madam, not to them.

THE DEPUTY CHAIRMAN; J will make if clear to them.

SHRI DIPEN GHOSH; Actually, the fact is that it is an important Bill. I know that he will be saying, "it is a good, progressive Bill" and all that. But even in such cases, on earlier occasions what used to happen was, as in the case of Sati Bill—Mrs. Alva > knows it—that the leaders of the Opposition of the groups and parties were called in the chamber of the Minister, the salient features were brought to their notice, they used to bring them round and then introduce the measures. Here in this case they could also have done that. If they arei insisting on passing this Bill during this session, I seriously object to piloting such an important Bill on the last day at the last hour. It betrays the Government's attitude *-j.* t_0 take Parliament for a ride. I protest against this.

THE DEPUTY CHAIRMAN: Dr. Bapu Kaldate.

SHRl NIRMAL CHATTERJEE (West Bengal): Madam, I would have initiated the discussion.

THE DEPUTY CHAIRMAN: It does not matter. You can speak afterwards.

SHRI PARVATHANENI UPEN- - DRA: You can speak in the second round.

THE DEPUTY CHAIRMAN: How many rounds you want to have?

डा० बापू कालदाते : उपसभापति महोदया मैंने एक सुझाव भी यहां पर दिया है कि हम इस बात को जानते हैं कि इतना बड़ा विधेयक है और मेरे जैसे लोग जो अर्थ शास्त्री नहीं हैं हमको अर्थशास्त्रियों की मदद लेनी है। यह आम तौर पर कहा जाता है कि यह अच्छा बिल है लेकिन हम जिनसे कल मिले थे वह कहते हैं यह देखने के लिये तो अच्छा लगता है, लेकिन देयर आर स्ट्रेन प्रॉविजन्स इन इट जो देखने में अच्छे आते हैं, अगर अमल में आयेंगे तो उसके बुरे नतीजे निकलेंगे। ऐसी बात उन्होंने कही है। लेकिन अगर यह सदन चाहता है और आप भी चाहती हैं कि इस बिल पर पूरा डिस्कशन हो तो इसके लिये समय मिलना चाहिये। जो छोटे-छोटे बिल हैं और बड़े महत्वपूर्ण बिल है, जैसे रीजनल रूरल बैंक बिल था, जिसको हम लोगों ने पारित किया, उस पर चार घंटे लगे। यह छोटा बिल था, 18--20 क्लाजेज का बिल था, लेकिन यह तो 190 क्लाजेज का बिल है। मुझे लगता है कि अगर आप इसको पारित करने लगें तो क्लाजेज को सदन में रखने में ही घंटा डेढ घंटा लग जायेगा। ऐसी हालत में अगर हमें उसको पढ़ने के लिये और चर्चा करने के लिये समय नहीं मिले तो यह उचित नहीं है। दूसरी तरफ के लोग तो कह सकते हैं कि मंत्री महोदय सब बातों का जवाब दे देंगे। हम लोगों के लिये दिक्कत यह है कि हम इसको पढ़ना चाहते हैं। किसी भी बिल पर लोकतांत्रिक व्यवस्था में जितने अच्छे ढंग से चर्चा हो जाये उतना ही अच्छा है। यह तो फिर बहुत ही महत्वपूर्ण विधेयक है। आप एक बहुत अर्थपूर्ण विधेयक लाये हैं। यह कहना ठीक नहीं होगा कि इस पर पहले अन्य कमेटियों में चर्चा हो गई है और पिछले अर्थ मंत्री ने इस संबंध में कुछ किया था और उसी के मुताबिक यह लाया गया है। इसमें हमें कोई रस नहीं है। हमारा कहना यह है कि इतना महत्वपूर्ण विधेयक जिस ढंग से सदन में लाया जा रहा है और हर चार महत्वपूर्ण बिलों को सत्र के अन्तिम दिनों में पारित करने का जो प्रयास किया जा रहा है। यह ठीक नहीं है। हम विरोधी दलों के पास इसका विरोध करने का एक ही हथियार रह जाता है कि हम इसको प्रोटेस्ट करें। आप बहुसंख्या में हैं। आप इसको यों ही पास कर सकते हैं लेकिन यह तरीका ठीक नहीं है। हमारे सामने प्रोटेस्ट करने के अलावा कोई रास्ता नहीं रह जाता है कि इसमें हम सिरकत नहीं कर सकते हैं। इसलिये मेरा आपसे निवेदन है कि इस सदन में इस बिल पर पूरी चर्चा हो जाये, इसके लिये हमें पूरा समय दिया जाये और पूरा समय देकर ही इस बिल को पारित किया जाये।

SHRI NIRMAL CHATTERJEE: Madam, I tried to go into the merits of the Bill in a very cursory manner. My rirst reaction to this Bill is that apart from being very heavy, in certain innocuous ways it has introduced certain clauses which are terribly dangerous for the economy as a whole and, therefore, it requires study. We all know that we all agreed about land reforms—Land Reform Acts in various States—and yet we know that it was introduced in such form, in such language and with such clauses that the land reform efforts of all the political parties were made null and void. Similarly, in this particular Bill the clause-by-clause understanding is absolutely important for the entire House. Most surprisingly, it started from the Busi-nes's Advisory Committee. In a meeting of the Committee it was said that it was nothing, it was simple, it would take only four hours. If w_e want to discuss it, it will take at least three days; it issucnathick Bill with such implications. We were misled from the stage of the Business Advisory Committee meeting itself. The Bill was received as passed ^{D}y the Lok Sabha. Yesterday. I was told, there was also an amendment by a private Member in the Lok Sabha. Now. in order to go into that we need time. Why should the executive treat the legislature, the highest body—We call this the "august body"—in this fashion? In the month

[Shri Nirmal Chatterjee]

of December this august body is being treated in this manner. I, therefore, very earnestly request the Finance Minister, who is not a non-understand ing person, to agree either not to move it or to send it to a Select Committee. Today's newspapers also commented that all the tax specialists and others were surprised. So, time must be given now that the accounting year changing into financial year. *{Time bell rings)...* Madam, you allowe time to big business houses but you don't allow time to Members of Parliament. Is this how democracy can flower in our country?

I, therefore, very earnestly request that the Finance Minister may kindly either refer it to a Select Committee or not move it here now and hold it up for the next session.

PROF. C. LAKSHMANNA (Andhra Pradesh); Madam Deputy Cnairman, if I understand correctly, this particular Bill will become effective for April 1, 1988, that is, for the year 1988-89. The assessment year is 1989-90.

I will try to plead on two counts. , If it was really very important, it could have been brought before the Business Advisory Cornmittee in a rudimentary form and it could have been discussed. In fact, Madam, in one of the meetings of the Business Advisory Cornmittee we asked them to let us know what important Bills were to come. There is no point in rushing through. All the while we were given to understand that only the Sati Bill, perhaps would come now on the last day and that other Bills would be very small ones and would not take much time. A Bill of this nature ought to be discussed in great detail.

Madam, I would try to bring in an analogy. When the Ninth Finance Commission was appointed and the terms of reference were framed and circulated, it appeared as though everything was all right. Only when they were examined in great detail, did the I

things which were hidden, come out, about which I had an occasion to tell in the morning how the terms of reference of the Ninth Finance Commission were vitiated against the position of the States.

Similarly, this Direct Tax Laws - (Amendment) ill, 1987 will deal with the divisible pool which will have to be shared by the States. I do not know. . Honestly I must confess here, in the morning the Bill came, I wanted to read it, I started reading it and I gave up because practically there was not much time. Everybody has to study it. Especially in view of the fact that it deals with the direct taxes with the share of the States in it, I would not like to take anything lor granted which might in the long run affect the position of the States because I represent the States. Therefore, it will [1] be in the interest of things and nothing will be lost if perhaps, in the next session it can be brought first. In the meanwhile, as it was suggested, if-it could be referred to a Select Committee of this House and if it can elicit opinion from tax experts, economists and financial experts and so on and so forth, perhaps, we would be able to bring a Direct Tax Laws (Amendment) Bill which will really be useful for the economy. I would like to make it very clear that We are all interested in improving the economy of the country, we are all interested in bringi-ing about greater resources because resource mobilisation has been one of the important aspects. There is no doubt about it. But let there not be hurry.

Therefore, even at this stage I would request the Finance Minister to consider kindly the possibility of either putting it off so that there can be a larger discussion informally or allow, ing it to be sent to a Select Committee of this House so that there can be a formal discussion. I leave it to the Finance Minister either to have an informal discussion preceding this Bill being debated here and ultimately passed spo that the country will be

really benefited or to have the formal prociss. I leave it to you as far as the *modus operandi* is concerned. Nonetheless, I would fervently appeal to the Finance Minister and the Government not to go ahead with this Bill.

THE DEPUTY CHAIRMAN: Don't ^hake a speech on the direct taxes itself.

SHRI ALADI ARUNA alias V. ARUNACHALAM (Tamil Nadu): One minute, Madam. During the last discussion on the Budget, the hon. Prime Minister and Finance Minister also. then, assured the House that a Bill for simplification and rationalisation of the direct taxes would be introduced before the next budget. In pursuance of that assurance, now this Amendment Bill has been moved for the consideration of the House.

Of course, the grievance is that the Bill could have been circulated earlier so that the hon. Members could have studied it in depth and that they have not been provided with adequate opportunities to go through the Bill properly. At the same time I understand the recessity of passing a Bill in this session. Realising this responsibility my colleagues, left and right, may come forward to cooperative to pass the Bill, because their political parties yin the Lower House have already cooperated to pass the Bill. *I* expect they will understand the reasons and extend similar cooperation to pass the BU n this House.

SHRI PARVATHANENI UPENDRA: I would only like to comment that this Government is handling even good things badly. We have been demanding comprehensive tax reforms and a single direct tax code[1] is also desirable. It is a good thing, Nobody is disputing last the Government itself was talking about it during the *t~* last few years. A discussion paper was also circulated. There v/as also some discussion. But I would like to point-out that the Bill is completely at variance with the discussion paper. New provisions have been added and so many other things have also been included in this. A 187 clause Bill is to be passed here. They will have far-reaching consequences, It is not a simple Bill like the Regional Rural Banks Bill. You are changing the entire tax structure. Therefore, heavans will not fall if you postpone its introduction, because implementation will start in April, 1989. When you are going to have major reforms, why do you want t_0 rush it like this? That is why our plea and request to our hon. colleague, who ig a very knowledgeable man and is responsive to good criticism, is to refrain from introducing this Bill. He should eliminate refer it to a Select Committee or postpone its introduction.

SHRI GURUDAS DAS GUPTA (West Bengal); This only speaks of the most unplanned way i_n which the Government is planning the work in this House, of Parliament. Considering that the Bill is important, considering that the Bill is voluminous and considering that it takes time for the Members to go through it, they should have given much more time to study the Bill and discuss it. People who are piloting the Bill are not new to this system of parliamentary democracy. Therefore, it has been either deliberately done or the work of the Parliament is being planned in a most anarchic way. Whatever ths reason, the impact is the same—the Parliament is being taken for granted as a stamping machine of the Executive. That must not be allowed. Since the Government feels sure that whatever they bring before the House can be passed i_n the way they like, there can be no option on $_0$ur part but to state that we shall not be taking part in the discussion if the Government insists on a discussion on this Bill.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): So far as I remember, the salient features of the Bill were widely published. Not only that—I am talking of Jammu and Kashmir and this must hold good for

[Shri Ghulam Rasool Matto]

other States also—the Chairman and the Members of the Central Board of Direct Taxes also visited Kashmir. They had elaborate discussions with the Chambers of Commerce and other trade organisations.

SHRI DIPEN GHOSH. But not with the Members of Parliament.

SHRI GHULAM RASOOL MATTO: I don't know about that.

SHRl DIPEN GHOSH: Then what for have we been brought here? If you could get it done by the Chambers of Commerce... *(Interruptions)*

SHRI GHULAM RASOOL MATTO: I had been to Calcutta and I came to know that the Central Board of Direct Taxes had igone there also and certain substantial changes have been made as a result of the confabulations the Central Board of Direct Taxes had with the Chambers of Commerce and other organisations.

Now, Mr. Dipen Ghosh has said that this Bill was brought at the fag end of the Session. There is no doubt about it. This thing should have been taken into consideration and *h* should have come earlier, but... *(Interruptions),*

SHRI DIPEN GHOSH; No question of 'but'.

PROF C. LAKSHMANNA: What he is having in his mind is UTTS. *(Interruptions,)*

SHRI ALADI ARUNA *alias* V. ARUNACHALAM'; Why do you take a different stand?

SHRI DIPEN GHOSH: I rm telling you again and again... *(Interruptions)..*

THE DEPUTY CHAIRMAN; Mr. Dipen Ghosh, what are you doing? This is not the way. Why are you quarrelling with him?

SHRI DIPEN GHOSH: Why he is repeating it again and again?

THE DEPUTY CHAIRMAN: Then, don't get up and go near him. You can talk from your own seat.

SHRI DIPEN GHOSH: Does he know better than what I know about my party there?

THE DEPUTY CHAIRMAN; Ali*-right, please sit down. Let Mr. Matto' continue. *(Interruptions).*

SHRI VITHALRAO MADHAVRAO JODHAV: Why are you so much sentimental *(Interruptions')*

THE DEPUTY CHAIRMAN: No cross-talking.

SHRI GHULAM RASOOL MATTO: I would only request my friends in the Opposition after all, I sit in the Opposition... *[Interruptions)*

SOME HON. MEMBERS: You are"* not.

SHRI GHULAM RASOOL MATTO: I should not have told that but I do not want in any way to denigrate the status of the Rajya Sabha. This being a money Bill having alreadj' been passed by the lal Sabha, even if they don't consider and pass this Bill, it will automatically become a law within 14 days. Now, it is for them to reconsider participating in the debate.

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SHRI GURUDAS DAS GUPTA: Madam, I am on a point of order.

SHRI DIPEN GHOSH: Madam Deputy Chairman, Mr. Matto is correct since it is a money Bill, Government does not require to come with this Bill here. II' they can sit tight for 14 days over it in their own Chamber they can deem it as passed by the Rajya Sabha then why the fun of it? We are objecting to this way and that way Rajya Sabha is being taken for granted.

SHRI GURUDAS DAS GUPTA: Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: I have already given you a chance.

SHRI GURUDAS DAS GUPTA: I want a ruling. Can anybody in the House refer that the Bill has been passed by the Lok Sabha and, therefore?, we are bound to pass it? This is an aspersion on the dignity of this House. You please check up.

THE DEPUTY CHAIRMAN: No. * There is no point of order. Please ' sit down.

DR. G. VIJAYA MOHAN REDDY: Madam, one minute. It i_s not one Bill but acti; illy there are four Bills.

THE DEPUTY CHAIRMAN: Don't create another trouble.

DR. G. VIJAYA MOHAN REDDY (Andhra Pradesh); Madain after all Bi'ls are being amended and they pertain to our fiscal policy which are ' very important. Especially the direct tax ratio is going down and the ini ircet tax ratio is going up. That means more emphasis is being paid by this Government on indirect taxation.

THE DEPUTY CHAIRMAN: Are you discussing the Bill?

DR. G. VIJAYA MOHAN REDDY: No, no. And also the basic financing. Under the circumstances, this Bill has to be gone through very Iho-roughly so that the States also get benefit out of it. We feel that this Bill should not be passed immediately and it should be referred to a Joint Select Committee.

SHRl JAGESH DESAI (Maharashtra): I want to make a submission on I lis.

THE DEPUTY CHAIRMAN: We will listen to the Minister.

THE MIN[T]STER OF FINANCE AND THE MINISTER OF COMMERCE (SHRI NARAYAN DATT TIWARI): Madam, I have listened to the pleas made by he distinguished Leaders of the Opposition with the greatest attention, I may assure them I am one with them in upholding the dignity, the practice and the procedure of this House. I am requesting them to be kind enough to revise their opinion. I have a few reasons to say this.

First of all, almost practically all the major provisions except one or tw_0 have already been put before this House in August, 1986 by my predecessor in the form of rationalization of direct tax laws. Most of the points which were laid before the House for discussion, were already known to the House and we can discuss even today whatever changes have, been made. It is for this reason that the Business Advisory Committee has fixed four hours in its wisdom for discussion on this Bill. Therefore, as early as in the Budget of 1986, it was mentioned. In the long term fiscal policy also, major directions have been given and the long term fiscal policy has been a subject matter of debate so many times, directly or indirectly in the Budget and after that, this paper which I have got with me has been mentioned. In the Consultative Committee also, we have had the privilege of having the advice of most of the distinguished Members. Apart from that, 'I am beholden to what m_v distinguished friend from Jammu and Kashmir has said. It has been discussed threadbare throughout the country and therefore, of this Bill represents more or less a consensus of what has filtered through that opinion. It is not a code.

मैं अपने पुराने महाराष्ट्र के सदस्य से कहूंगा कि यह जो विधेयक है यह डाइरेक्ट कोड अभी तो आना है । यह तो केवल उनके बारे में ही विधेयक है । जिनमें सर्व-सम्मति है ।

तो इसलिये जहां पर ऐसा नहीं है वह आप बतायें तथा विधेयक पर बहस में हिस्सा लें । जहां पर आपको लगता है कि हम एकमत नहीं हैं तो आप वहां विवाद में भाग लें ।

[Shri Narayan Datt Tiwari]

I am very much beholden to leaders in the other House and all Members in \thef other House because they understood the importance of this Bill. There is one more reason. Now some hon. Members said that this Bill will go into effect from 1st April, 1989. It is true. If we pass the Bill now only then the provisions can be implemented from 1989 onwards because of the accounting year difficulty. The accounting years are different. Now we are putting only one accounting year. Under the existing laws, there are different accounting years and different accounting procedures. *(Interruptions)*

SHRI NIRMAL CHATTERJEE; If you pass it in February, what difference it will make?

SHRI NARAYAN DATT TIWARI: Madam. I would request Nirmal Babu not to be 'KATHOR'. For the first time, in the history of the country, thi$_s$ Bill is going to propose that we have full confidence in taxpayers which everybody wants. Now in Lok Sabha, all the leaders were good enough ts agree because of the fundamental change in the direct $^+$ax laws. There was no voting. Everybody agreed. One of the leaders put forward his proposal for a Joint Select Committee. He took part in this debate. We are thankful to them. They understood the importance of this Bill, therefore, they cooperated.

SHRI PARVATHANENI UPENDRA: I would like to inform the hon. Minister that they had four days. It wa$_s$ introduced am the 11th. They had four days.

SHRI NARAYAN DATT TIWARI: No$_w$ this is a money Bill and under our rules, we have to return it, ^{T} mea$_n$ the Rajya Sabha has to return it within 14 days of the receipt and today is the last day of the Session. Therefore, il is well within the Parliamentary practice and procedure] that we consider this money Bill and give our opinion to the other House within 14 days. This is the procedu ral compulsion and therefore, I would say, keeping in view the importance of this Bill, keeping in view that this has bee$_n$ approved by the Business Advisory Committee; that we may consider it. When it was before the Business Advisory Committee, this has come up many times. Now on the 11th December, the Business Ad visory Committee fixed unanimously four hours for Direct Tax Amend ment Bill. 1987.)*Interruption).* May I have the kind attention of my distinguished friend from West Ben gal. What I say is what was the comprehension of my dear friend the Member sitting opposite? Was he thinking that the Direct Tax Amend ment Bill covered at least four direct tax Bills? It was known to them. It was known that this Bill covers that and that paper has already been circulated before the House and dis cussed so many times formally and in formally. Therefore ..... *(Interrup tions)*

3 P. M.

SHRI DIPEN GHOSH: That book is already there. The ideas are already there. We have to check np whether the amending laws conform to them. *(Interruption)*

SHRI NARAYAN DATT TIWARI: T agree. Tn future. I shall certainly' take care of what he has said. T could have done it yesterday. I shall certainly do it in future. T do appreciate the parliamentary nicety of it. T perfectly apree with him. T should have done that. T shall do that in future. In future, whenever there is a measure likp this. T shall call vou and discuss beforehand. *(Interruptions}*

SHRI DIPEN GHOSH: Madam.

THE DEPUTY CHAIRMAN: T am onmy less. T will give you the position. The Direct Tax Laws (Amendment) Bill, 1987 was passed bv Lok Sabha yesterday and the message was "reported yesterday itself. It has been cerfi-

fied by the Speaker of Lok Sabha as a Money Bill. In accordance with the provisions of Article 109 of the Constitution of India, we have to re turn the Bill within fourteen days from the date of receipt of the Bill by us. Today is the last day of the curent session. If, therefore, we do not return the Bill, under clause (5) of Article 109, the Bill shall be dee med to have been passed by both the Houses. I do not thing that the Mem bers of the House desire this impor- tani Bill to be passed without expres sing their views on it. Therefore, I think that, by the inclusion of the Bill in the list of business today, an opportunity is being provided to the House to deliberate. However, I would like to observe that in future, when evei important Bills, especially of the nature of the Direct Tax Laws (Amenrment) Bill, are to be listed for discussion, it should be ensured _ that Members get adequate time to go through the provisions so that the deliberations in the House become meaningful. I trust that, in future, the Government will plan legislative business accordingly.

SHRI DIPEN GHOSH: We cannot agree with it because the Govern ment had enoungh time. He was show ing a book. When was it published? According to his own statement, it was published a year ago. They could have prepared the Bill long ago. They could have circulated it. But it was not there in their mind. Tt is
true that the ideas were discussed. If we have to examine whether these amending provisions, the provisions and proposals made in the Bill, conform to those ideas. Our experience is that once a Bill is passed, in the next session, some amending Bill is brought. It is the tendency of the ruling; party to take Parliament for a ride and to get passed whatever they like. Afterwards, they face difficulties, even litigation. Earlier, such important Bills used to be referred to the Select Committee between two sessions and the Select Committee used to examine them. They would get the details and bring out a report so that legislative time could be saved. That can be done here now. Even if the Bill is passed in the month of Feb-I ruary, that will not affect the technicality of implementation as our Minister was saying that tt would not be possible to give *effect* to it before March, 1989.

THE DEPUTY CHAIRMAN: The Bill cannot be postponed now. *(Interruptions)*

SHRI DIPEN GHOSH: We cannot agree with it. *(Interruptions)*

We cannot allow the House to be taken for granted. This is not the general body of CLP or CPP. This is Rajya Sabha. This cannot be taken for a ride like this. We walk out in protest, test.

(At thisstage, some hon. Members left the Chamber.)

SHRI NIRMAL CHATTERJEE; You adjourn the House for seven days. We will meet after seven days. We are prepared to discuss it threadbare, *(In. terruptions)*

DR. BAPU KALDATE: You are not asking for our cooperatton.... *(Interruptions)*

(At this stage some hon. Members left the Chamber.)

SHRI NARAYAN DATT TIWARI: I beg to move:

"That the Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Pro- ' fits) Surtax Act. 1964, as passed by the Lok Sabha, be taken into consideration. "

Madam, this Bill is based on the long-term fiscal policy and the Discus sion Paper which was placed on the Table of the House titled "Simplifica tion or Rationalisation of Direct Tax Laws". After prolonged discussions with honourable Members in the Con sultative Committee, outside. and

[Shri Narayan Datt Tiwari]

taking the views of all sections, public opinion, including trade and business community, this BHl has been brought forward mostly representing those provisions which reflected the consensus. The first major thing in this Bill is to accept the consensus that henceforth we will be in lhne with the policy of reposing trust in the tax-payer so as to encourage voluntary compliance. That is the basic concept, the basic trust tn the tax-payer, so that he himself voluntarily tells what he has to declare. Instead of the concept of assessment of income by income-tax officers, the concept of determination only of additional tax or refund wtll be there. And the penalties also will be known to the taxpayer. The department will not have to pass an assessment order in each and every case. If the tax-payer has failed to pay the entire tax and interest before submisston of 'returns by advance tax, then he will become an as-sessee in default. Wherever excess amount has been paid he will be entitled to refund automatically. Then again, there is a procedure by which scrutiny of the return of income will be undertaken on a random basis, on a selective basis, and the process of investigation will be initiated within the same financial year or within a period of six months from the date of filling of the return, whichever is later.

Tt is also proposed to introduce a simple system of mandatory interest to compensate Government for loss of revenue anj also penalise the assessee for repeating, the default, by replacing the existing provisions which give the assessing authorities discretionary powers to levy penalty as well as interest for the same default.

Again this Bill proposes to replace the existing concept of allowing different accounting years for different sources of income by a provision for a single uniform accounting year for purposes of taxation which will be applicable to all assessees, irrespective of their source of income. This is also, m'ajor step that there shall be a single uniform account ing year. This will ensure that thj rate structure 'applicable to the income earned during the same period by the same category of tax-payers is the same. This will also obviate manoeuvring, the period of accounting to reduce tax liabi lity.

Another provision that has been mad% is for greater participation of individuals as also corporate or non-corporate bodies in the field of scientific research, rural development programmes and conservation of natural resources. It is, therefore, proposed to alow deduction in respect of payments to approved scientific researchiciations, university, college and other institutions as also in relation to payments to Rural Development Fund.

A new scheme relating to the donation system of charitable institutions is proposed which will take within its fold all *in*^ titutions, trusts, set up for charitable purposes anj declared by he Board as an institution of national importance. This will simplify the law and will ensure that charity remains the dominant objective even by a business held in trust. This will also reduce the possibility of evasion. In the Budget Speech of the Finance Minister for 1987-88. that is, the speech of the Prime Minister, it was announced that the State Bank of India will set up a mutual fund similar to the one set up by the Unit Trust of India. So it is proposed to "extend tax concessions to the Mutual Furiy by exempting the income on capital gains from income-tax and wealth-tax and gave them the benefit of deduction under Section 80L of the Income-Tax Act.

As a measure of rationalisation of the scheme of taxation of firms, the share income of a firm will not be taxed again in the hands °f the partners. However, payments made by a firm to the partners on account of interest, remuneration, will he ′ taxed in the hands of the partners.

Other amendments proposed in the enactment include those which are in respect of the scope of taxable income, income-tax

authorities, including change in designations, as also their jurisdiction and procedure for collection and recovery of taxes. The procedural provisions and the provisions relating to jurisdiction, interest, penalty and assessment in the Wealth-tax Act and Gift-tax Act are proposed tc be amended so as to bring them in line with the corresponding provision's j. in the Income-tax Act. The provisions of the Bill wil) extend to the whole of India. A majority of the provisions of the Bill shall be brought into effect from the 1st April, 1989. However, some of the provisions will come into effect from the 1st of April, 1988 in particular, those relating to the delegation of powers.

Madam, I have 'already mentioned to this august House the reasons why this had to be done now. It is because of the fact that since the accounting year changes, throughout the country, firms and individuals will 'have to adjust them-•selves to the new procedure and, therefor;, they should have enouah time to adjust all their business and accounts. It is, there for very essential that we should pass this Bill now so that they can know about it and adjust themselves a<vo«ling to the provisions of this law.

I hope Madam, this august House will accept the provisions of the Bill and return it. Thank you, Madam.

The question was proposed,

THfi, DEPUTY CHAIRMAN; Now, Mr. Aladi Aruna.

SHRl ALADI ARUNA *alias* V. ARUNACHALAM; Madam Deputy Chairman, in respect of the Direct Tax Laws (Amendments Bill, I rise to say a few words.

Madam, in the Long-Term Fiscal Policy, announced on behalf of the Government, atime assurance was given to our nation. In pursuance of that assurance, a discussion paper was evolved on the simplification and rationalisation of direct taxes. In this discussion paper, some objectives were mentioned. They are simplification of the law and procedure relating to direct taxes, providing for volun-1579 RS-^1.

tary compliance, providing for effective deterrence against evasion, removing the uncertainty in the matter of assessment and ensuring uniformity as far as possible. These are objectives mentioned in the discussion paper. Then this discussion paper was elaborately discussed by various agencies and, after gathering opinions, comments, criticisms and constructive views from the various agencies, the Government has brought forward this amending Bill for the consideration of the House.

Madam, the reform in direct taxation is more essential. If we examine the various aspects of taxation, we will see that the income from direct taxes is declining and it is a red signal to the nation. In 1979-80, the contribution of direct taxes to the General Pool was 26. 6 per cent. But it has declined, in the year 1984-85, to 22. 6 per cent. ' At the same time, the contribution of indirect taxes is increasing. Similarly, the cost of collection of direct taxe. s per Rs. 100 crores is also increasing. While the cost of collection of indirect taxes per Rs. 100 crores has declined by 24 per cent, the cost of collection of direct taxes has increased by 3 per cent. Apart from tax evasion and other irregularities, these are also the most important areas for the consideration of the House. Therefore, simplification and rationalisation and reform of the tax system are more important. That is why, in the Bill also, some objectives, constructive proposals and views have been incorporated in so many sections.

Madam, the Direct Tax Laws (Amend ment) Bill deals with amendments to four Acts, namely, amendment to the Income-tax Act, 1961, amendment to the Wealth-tax Act, 1957, amendment fo the Gift-tax Act, 1958 and amendment to the Compa nies Act, 1964. If you go through the amendments, you will find that as far as the Income-tax Act amendments are con cerned. 126 nmendmeets are there. So far as the Wealth-tax Act is concerned, the amendments are 34. So far as the Gift-tax is concerned, amendments are 26. As for the Companies Act the amend ments are 3. Nearly 184 amendments have been introduced in this Bill. Why I I am saying this is because it would have

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been proper if adequate opportunity had been git en to the Hous; and the hon. Member!, whichever party they belong to. Otherwhl. what would be the net result? We will have to act according to the whims imd fancies of the bureaucracy, because it iis the bureaucrats who dra[r]t Bills. If you are not discussing the various aspects- -the interpretation of the law. explanation's of sections, etc. —and they are not giving the result^ which we aim at, Tha! is why adequate opportunity should bs given to the hon. Members. For future. the hon. Minister has promised to avoid such things. I 'hank him for his assurance

I welcome the objectives of the Bill. They have dropped the concept of assessment. Also an amendment has been proposed locharge income-tax uniformly, as far as possible. This is also a welcome move in this amending Bill. In order to curb tax evasion it has been proposed to levy a mandatory additional tax to the extent of 30 per cent. This is a very important feature. Thereby we can increase th. revenue of the Government. Then, Madam, tax is proposed on trusts also, because nowadays for the evasion of tax the best instrumentality is formation of Trust Boards. So many statutory ti usts, in the name of God, in the name of institutions, in the nam; of so many agencies, have been formed. Actually I am very happy with thi$_s$ because this is a big area where we find that a huge evasion of tax takes place. So w-are happy that the Government has taken a firm step in this respect.

Similarly, a system of mandatory inspection also has been introduced. Tt is also a welcome move. They hav$_?$ assured for the enactment of a single direct tax code. It is also very necessary, because now the various tax laws have become the hunting grounds of lawyers. There aire several types of interpretations. There are various types of decisions. So the codification of the direct tax laws is very important Now it has been realised.

Madam, suppression and taking action against tax evaders are the needs of the hour. It is realised by all. Our hon. Prime Minister also, while addressing the Con ference of Commissioners of Income-tax. very clearly stated that those who evade must be chased and punished. It is not [an] ordinary statement. It i$_s$ a strong state ment against evaders. We are told today that we are able to curb what we want. That is very important, because as far as our direct tax law is concerned, it is al ways lenient, it is always liberal, it is al ways having a proclivity to the wealthy class, feudals and multi-millionaires. Why 1 am saying this is because if you go through a number of cases, it will be easi ly disclosed how action has been taken. Madam, I would like to submit for the information of the House that in the year 1983-84, the number of prosecutions was 1 1112. In 1985-86 this number increased to 3646. In 1985-86, 3646 persons were prosecuted for evasion of tax. Do you ^ know the number of persons punished? Only 70 persons have been punished. What ! does it mean? It me'anw that the law is very liberal, the law has no teet, and no bite. If a poor man steals food to remove his hunger and he takes a piece of bread, then within a fortnight he will be punished with one or two months' imprisonment. Here the multi-millionaires are cheating the society to the tune of crores of rupees and the law has no teeth to tak; action against them. This is the factual position. Unless we take some drastic action against the tax evaders, there is no chance of in creasing our resources. What are the arrears of tax? It seems that we arareoing backward. What is the reason? We are introducing new tax law$_s$ or increasing the existing tax rates or taking assistance from foreign countries. At the same time, multi-millionaire's and big monopolv houses are not paying taxes properly. In1984, th; arrears amounted to Rs. 272. crores. The same figure was maintained in1985. I appreciate the Income-tax Department. There was no increase. The *statu* [*auo*] [nas] been maintained between the year$_5$ 1984 and 1985. But if you see th; figure for 1986, you will find that it has jumped to 513 crores from 272. 1 crores of rupees. It is an increase of al most 100 per cent. What is the reason?

If you include the current demand, the arrear of tax comes to Rs. 1374 crores. We nust be more serious about it. That is way we are not able to implement so many programmes. Who are they who fail to pay taxes? Are they ordinary citi-z: ns of salaried classes? Certainly not. We know very well that 93 per cent of the assessees submit their returns voluntarily. There is no dispute about them. The dispute is regarding the remaining 7 per cent. The information has been given recently in the Lok Sabh as to how many I is monopoly houses and big traders fail to pay taxes and what thei, - arrear is. Madam, I may tell the House thai the arrears are as follows: Singhania—Rs. 44. 33 crore?; Tata—39. 22 crores; Birla— 24. 22 crores and Reliance—Rs. 4. 85 Why do they fail to pay taxes? The) are earning lakhs and lakhs of rupees. Hver then they have to pay lakhs end lakhj of rupees to the Government. They have to pay something like 65 lakhs of rupees 63 lakhs of rupees, 48 lakhs of rupees and 39 lakhs of rupees. Why are they keeping these arrears? We mu$_s$t take stern action against these people. Unless we take very serious steps, we will not get th$_e$ expected results in spite of the laws that we may pass or the amendments we may approve. This is an important area over which the Government must concentrate. Then there is another thing which I want to say. I am saying that the law is very lenient to the wealthy people. T am not an expert in law. T do not know what the existing law is. But 1 am to say that then: is a particular Report of the Public Accounts Committee. They point out an alarming fact. The assessees who were having an income of more than Rs. 5 lakh) per year in the year 1982, Madam, were 900. What we expect is that it will increase. Even the figure of 900 is an incorrect figure. It is warned by the Committee. That is a different aspect. The number of person having an income of mor/ than Rs. 5 lakhs per year in the year 1982 was 900. In the next year, it was re-to 599. We are not able to understand the reason for this. Perhaps, the hon. Minister may argue now that the figure has increased. That is a different thing. But what is the reason for this? How is the higher income group declining? Is it because the high level offi-cers are lenient towards these big monopolists and big business houses? Therefore, I would appeal to the hon. Minister. I know that he is very fair, he is for progressive measures, he is for the establishment of a socialist society. Our hon-Prime Minister has also taken a vow to remove corruption and to establish a socialist society. To fulfil these aspirations, the best method is that we must take steps against tax evasion and we must implement the law without any fear and favour.

With these words, Madam, I conclude my speech.

SHRI JAGESH DESAI: Madam Deputy Chairperson. I compliment[1] the Government for bringing this Direct Tax Laws fAmendment) Bill, 1987. I would have been more happy if our friends from the Opposition had been present here.

Madam, this Government is very responsive, and if you give concrete suggestions, they accept them. This is the experience of many of the friends here that whenever we have given them the correct and logical proposal, the Finance Ministry had always accepted it. Madam, as you know very well, after the Budget discussion is over, then to give effect to the Budget proposals, the Direct Taxes (Amendment) Bill is always introduced in the House. A-t that time, not only the proposals which are in the Budget but also another Amendments which the Government has decided to give effect to after surveying and after discussing in the year, are brought before the House. So, if they had been present and if they had given some concrete suggestions, at the time of the introduction of the Direct Taxes Amendment Bill which was to be brought after the Budget was over, they could have been incorporated. So, they should have remained present and given suggestions, and the Government could have given a thought to those suggestions at the time of bringing the Direct Taxes Amendment Bill after the- Budget.

Madam, our Party has committed and we have committed in our manifesto that we shall not tolerate those-

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who evade taxes and that we shall take stern action against thefn. Madam, 1 am very happy to say that Mr. V. P. Singh, during[1] his tenure in the Finance Ministry, had done it—I do not want to dispute it. But that was our policy. That is our policy today. That will remain to be our policy till we are ab!e to see that this kind of tax evasion has been done away with.

Madam, our Finance Minister had given all the figures at the time of the discussion of Fairfax and I am not going to repeat it. But I would say very emphatically that after Mr. V. P. Singh ceased to be the Finance Minister, there were more raids to unearth black money, and the quality of raids, the amount which was detected per raid has improved. That shows that our Party is committed to see that his kina of tax evasion has Been done away with. We are going to do it. Till it is not done away with, we are not going to spare anybody. Madam, I am not going to discuss the fiscal or taxation policies today because the time is very much limited. I will restrict myself to some o! the proposals which are contained in this Bill.

First of all, Madam, it was Mr. L. K. Jha, who was appointed to find out what should be the financial year. Dis cussions were held at various levels and with various bodies. We also dis cussed the matter in the Consultative Committee and the came to the conclusion that as far as in-come>-tax is concerned, the financial year should be the accounting year and accordingly they have brought this amendment to the Bill. I will now point out. Madam, now it is going to generate more resources. I am also a practising chartered accountant. I know how it is being done. Suppose I have got four firms. I will keep different accounting years for different firms. For one firm it will be March-ending, for another it will be June-ending, for the third it will be September ending or December-ending and for the fourth it may be Samvat--ending year. Madam, if I find that my sales for the accounting year ending 31st March, 1988, are going. fo be very-big and I am earning good profit, then what I would do is that the sales proceeds for the month of February and March I will divert to any of the other firms, whose accounting year ends say in June or later. Thereby I will be diverting the profits. Now, if the second firm is in a loss or has not made good profit, in that case what happens is that that firm will be taxed at a les-ser rate and that is how I will be able to save in income-tax payment. This was the position when there were separate accounting years for different firms. That is why they have now in-troduced the principle of only one accounting year.

The second advantage of having only one accounting year is that if you want to seek any information from the various firms a person is holding, you can get information from everyiy where and you can compile it and compare it. That is how this one ac-counting year will help you to detect the cases of tax evasion and all kinds and methods of avoidance of taxes. I am very very happy that the Govem-have accepted the proposal that row the financial year will be the accounting year for all the companies and all the firms, in fact for everybody. - and for incomes from all sources. This is a very good feature of the Finance Bill.

Madam, as regards taxation of the firms, in my first budget speech I had said thai the time bnc come now when we have to plug all the loopholes and division of income for attracting a lower rate of taxation is to be put a stori to. This practice is f?oing on on a verv large scale. Suppose I have a firm in my name and my two sons arc also partners in it. In another firm my wife will be a partner my brother will be a partner and my brother's wife will be there. That is how I will try to divide the income in such a manner that I have to pay very lit- -tie tax. Now these things cannot happen because all the firms will have to pay tax at the maximum marginal rate and that is 50 per cent. So, this

kind of division of income for attracting a lower rate of tax, it won't do. That is why I say that this is a very good and a progressive measure and it will ensure that the Government gets the revenue which it is entitled to and it will now go into the coffers of the Government. But at the same time the Government has seen to it hat a small assessee is not put to difficulties. I will give an example. Suppose there is a firm where the income is about Rs. 60, 000 only and there are two partners. Here what they have done, Madam, is that the interest which a scheduled bank gives and the salary given or commission given to partners, 'according to the formula for st fifty thousand it is at 75 per cent, then it is 50 per cen and like that. Madam, I will glvi If the income is Rs. 60, 000 and Rs. 10, 000 by way of interest, then the income remains Rs. 50, 000. Then out of Rs. 50, 000, 75 per cent can be given. fBnen the income is only Rs. 12, 500, i. e., Rs. 6, 250 for two partners. So, these small firms will not be put to any difficulty and they will pay tax at a very low rate. And that is how they have taken care to see that small assessees are not put to difficulty. And that is why this formula has been put in this Bill and that is a very welcome features. About resource mobilisation T would like to say something because that partains to income-tax. These firms will lie taxed now as separate its for the purpose of taxation. Section 80C! is not applied to the firms. What will happen now is, under th$_e$ new law, *my* share of income from the firm will not be taxed, because the firm's income is already taxed separately. Suppose I am a partner, and I have no other income. I will not be taxed because the firm is already taxed. If I have some interest Income etc.. that also will not be taxed. Previously I was putting some money in the Public Provident Fund to save on the tax. But now since I am not to be taxed, why should ^ T put any money in the PPF? I have no other Income except income as the Member of Parliament, and my income as a partner of the firm will not get added to mv income as Member of Parliament. So, to that extent, your savings are going to be affected because I will not contribute to Public Provident Fund. If you do not amend section 80C and give this benefit to firms also, your savings will be affected, and the States also will not get their share of the revenue on account of these small savings. Therefore, at the earliest occasion, the Government must come out with the proposal to give benefit to the firms also under section 80C.

As regards Association of Persons, Government has taken the stand that they will be taxed at the maximum marginal rate and if the persons are not taxable, then share of a member will be taxed or will be included in the income of that member, and that is how recourse to tax avoidance is being[1] plugged, and that is why by this Act, Government will get more revenue. It will be seen that tax avoidance is stopped and more resources are mobilised.

As regards deterrent and puniish-ment for tax evaders, previously it was a discretionary power with the officers which was the root of corruption. Now, that power has been taken away. For any concealed income, CO per cent additional tax will be levied. To give an example, suppose I evade a tax of Rs. one lakh. On detection, Rs. 50, 000 will be the normal tax if taxation rate is 50 per cent: then:; 0 per cent of that tax will be levied as additional tax plus for not having shown the income of Rs. 50, 000 and not having paid any advance tax, I will be charged interest at the rate of 24 per cent. In addition, I will be charged interest on less payment of tax under self-assessment. That is why. it is not only the additional tax that you will get but you would get much more revenue by way of interest and hunter charge for not paying advance tax etc., and henne, any tax evasion or c cealment of income will be discor ed.

Similarly, those who want to bur-' time, tbev must pay for that. Returns are to pe filed bv companies which are limited companies, by 31st December, and in case of those whose PC-

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counts are to be audited under the law. have to submit their Returns by 30th of September. Those who have business income, up to 31st July and others, 30th June. If they file the return later, then 24 per cent interest will be charged. This is raanaa-tory. Officers have powers to waive it or reduce it. This is how, the powers which were with the officers, which was a source of corruption, have been taken away. Since this is mandatory now, everybody has to pay accordingly. Similarly, it the advance tax; paid is less than 10 per cent of the amount due. then also 24 per cent interest is there. Then, if the refund is more than ten per cent of the tax thev have to pay, then 18 per cent interest is to be given to those who are entitled to the refund.

Madam, as far as he salaried class is concerned, this Government is coir. f mitted to help the salaries class. There are some provisions in this regard which I would like to bring to the notice of this august House. The gratuity paid is at present twenty months salary or Rs. 36, 000 whichever is less. This is exemped from tax. Previously, for this purpose, an average of the preceding three years' salary was taken. As per the new provision, it will now be ten months' average. As the salaries increase every year, they will get more benefit because the average of the preceding ten months will be taken. Similarly, in the case of leave salary, earlier it was six months. It is now eight months' salary. This will be taken into account for the purpose of deduction while computing the income. The salaried class will be benefited by this. This is a welcome provision when we are living in a period of inflation and it will be of great help to the salaried class.

As far as the penal provisions are concerned, I will give just one example. I hope the hon. Minister will take note of this. If the tax deducted at source Is not paid, the penalty is three months rigorous imprisonment. This is the minimum penalty. This is statutory. The person will be put behind bars tor three months. The maximum is three years or more. I do not remember exactly. But what I would like to point out here is that this is a- dangerous provisions. This is a dangerous provision because it is not connected with the amount to beg. paid to the Government. Even if it is a sum of Rs. 100, there will be penalty. Do you want that even those who have not paid the tax deducted at source, to the extent of just Rs. 100. to be put behind bars for three months? Is it the thinking of the Government? The small assessees do not have chartered accountants. They have no other staff. Due to some oversight, if tax has not been paid, are you going to put them behind bars for three months? There may be some such provisions like this. I do not know. I must confess, I have not gone through the Bill completely. I have not gone> through all the penal provisions. But if is my duty to point out that this is a very monstrous provision and this has to be amended in such a way that small people are not affected. Otherwise, even if I have not given Rs. 100 to the Government, by mistake, which I have deducted. I will be put behind bars. I would request the Govern-ment to have a second look at this provision and effect changes at the time when they come forward with the Budget proposals for next year. Other wise, it will be harsh on the small *T* assessees and they will be put to a lot of difficulty. (Time bell *rings)*

Madam, I know the time is limited. I will just wind up by saying tbfs. As I said, most of the discretionary powers of the officers have been done away with. Bad debts will be allowed only in the year in which they were incurred as per the new provision. Previously, the officers had the discretion to allow it in the next year also. This was another source of corruption and this has also been plugged now. There are many other such provisions but I do not have the time to go into them. These are mandatory and they have to be complied; with. Officers have no discretion. This is

how we have seen to it that whatever is due to the Government comes into the Government coffers. Coming to the aspect of simplification, here most of the returns are going to be accepted as they are, it is not necessary that an order should be passed. Some of the returns are to be scrutinized but there also they have to do it within six months of filing a return or before the end of the financial year, whichever is later. It is a good thing. But I want to warn the Government on *one* aspect. Now^a-days what happens, if somebody has got black money, he credits it in his books in benam names in the form of loan or something like that. I would like the Government to see that this thing does not take place. If the deposited loans are more than Rs. 25, 000, scrutiny should be done v. 'ithout any exception. Otherwise, out will be giving fillip to this kind of transaction of black money.

Secondly, accounts of the companies, whose paid up capital is more than Rs. 1 crore should be scrutinized thoroughly and not by random. I have seen the reports of the year 1985-86, 1986-87. Rs. 200 crores were evaded by big business groups and more than Rs. 100 crores were evaded by way of non-payment of tax. This was also not gone into thoroughly, but by overseeing the accounts. That is why I would like to say that the accounts of those companies whose paid-up capital is above Rs. 1 crore should be scrutinized thoroughly. If that is done, we will mobilise more resources and they can be used for the upliftment of the poor people.

With these words I support the Bill.

SHRI GHULAM RASOOL MATTO: Madam Deputy Chairman, I must confess that I have not seen the Bill. After coming over here I collected a copy of the Bill from the Table Office and I have gone through it cursorily.

[The Vice Chairman (Shri Jagesh Desai) in the Chair]

I want to bring to the notice of the Finance Minister one thing. He is not there. There are provisions in his Bill which are very laudable as my friend Mr. Jagesh Desai also said, but if good things are done in a bad way, it loses its impact, it loses its taste. I can unaerstand that we in Rajya Sar bha received it yesterday, but the date of introduction in Lok Sabha is also 11th December, 1987. Even the Lok Sabha, which is the main body responsible for doing such things which scrutinises the Money Bills. M. Finance Minister, I was referring to the point that this is a laudable Bill, but if a good thing is done in a bad way, it creates bad taste. I can understand that this is a Money Bill and this was the prerogative of the Lok Sabha to have scrutinised it, but I find that in Lok Sabha also the Bill was introduo-ed on 11th December, 1987. So, even the Lok Sabha has not been given enough time for consideration of this Bill. However, there is no such hard and fast rule. The measure was necessary and it had to be adopted. Somebody was speaking and he has correctly pointed out that in the implementation of this Bill if we find that there is any difficulty, we should come out with suggestions, we must come out with amendments. Even we have to come out with amendments I would like to *give* this reply to my friends in the Opposition that even if the Bill is passed, as it will be, they will still have sufficient time to ponder over the Bill and if they find that any section of this Bill is obnoxious, is not palatable, is not agreeable to them, they can go to the Finance Minister as he has to bring the Finance Bill in the Budget Session and suggest any amendment which they want. I would like to appeal *to* them through the Press, because they have staged a walk-out, that they should study the Bill that will be passed just now and if there are any provisions which in their opinion are obnoxious, they can really go to the Finance Minister who will bring those amendments in the next Finance Bill.

In the Statement of Objects and Reasons—I would request the hon. Minister to react to it—there is one clause, e. g. clause 2(iv") which, it seems to me. requires a little clarification. It is stated therein, "to increase the cost of avoidance and to provide effective deterrence against

[Shri Ghulam Rasool Matto]

evasion, it is now proposed to impose a mandatory additional tax upto the extent of 30 per cent of the concealed income in the event of any concealment of income. " Mr. Finance Minister, to my mind this is a very harsh "provision in the sense that no distinction has been made between a concealment which is wilful and a concealment which is not wilful, which was as a result of some mistake or something like that. What happens then?

THE VICErCHAIRMAN (SHRI JAGESH DESAI): Mr. Salve will take care of that.

SHRI GHULAM RASOOL MATTO: What will happen to such a thing? I am talking of a company which has got an income of five lakh and they are to pay 50 per cent—i. e. two lakh and fifty thousand'—and in the course of assessment by the Income Tax Officer, if a concealment of Rs. 100 is found which is unlawful, he will have to pay Rs. 1. 50, 000 as tax for this concealment of a hundred rupees because he will impose a mandatory additional tax upto the extent of 30 per cent.

THE VICE-CHAIRMAN (SHRT JAGESH DESAI): It is 30 per cent of the income concealed—i. e. Rs. 100.

SHRI GHULAM RASOOL MATTO: This needs to be understood whether there is wilful concealment or not a wilful concealment.

There is a very good provision here that the tax will be in the hands of the firm and not in the hands of the partners. I would like to know from the hon. Minister how this will be computed at the time of assessment of the firm when the sources of other incomes of the nartners are also to be clubbed.

THE VICE-CHAIRMAN CSHRI JA GESH DESAI): His share will not be added.

SHRI GHULAM RASOOL MATTO: How will the other income be assessed?

SHRI A. G. KULKARNI (Maharashtra): The Chair is guiding you.

SRIH ALADI ARUNA *alias* V. ARUNACHALAM: He is an expert on taxation.

SHRI GHULAM RASOOL MATTO: I will ask the hon. Minister if the income from other sources is at a level which is exempt from income-tax....

SHRI N. K. P. SALVE (Maharashtra): There will be no taxation.

SHRI GHULAM RASOOL MATTO: No taxation?

SHRI N. K. P. SALVE: Th; firm would be taxed as company.

SHRI GHULAM RASOOL MATTO: In the case of a partner, having income other than from the company, if it falls within the exemption from taxation limit, it will be excluded— do you mean to say that? This is one 'Y clarification that I would like to seek. You will kindly try to understand my point. Mr. Kulkarni, please try to understand me. You know that I am a taxpayer myself. My point is. in the hands of a firm the income is there. But other than the firm's income, the individual has an income which is below the taxable limit. Is it exempted?

THE VICE-CHAIRMAN (SHRI JAGESH DESAT): No tax T spoke or, that point

SHRI N. K. P. SALVE: It will not be taxed.

SHRI GHULAM RASOOL MATTO: So the slab will be separate and even if it exceeds the limit, it will bs exempted.

SHRT N. K. P. SALVE: They are two separate entities.

SHRT GHULAM RASOOL MATTO: The other point that T would like to brinrr to the kind notice of the honourable Minister is with resrard to the filins of Income-tax Returns ber-anse the Return is now the main point. Whereas th? mnior portion of the income-tax sonrcp is in th? hands of the firms, the concession to them

has been given for only one month, that is, from 31st July to 31st August, while in the case of companies it has been given up to the end of December. So I would request the honourable Minister th: \t h-: should consider that, because the majority of the assessees are firms, the concession for filing of returns without penalty should "ranted to the firms also in the same proportion as in the case of companies. The majority are firms. Firms are being given a concession of only one month while in the case of companies it is up to 31st December. I would request him to extend the same concession to firms also.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): In the case of companies the accounts are to be audited, under law. That is why that much time is given.

SHRI GHULAM RASOOL MATTO: il in the case of firms where it is mandatory for the accounts to be audited, that is alio 31st October.

THE VICE-CHAIRMAN (SHRT JAGESH DESAI): It is there.

SHRI GHULAM RASOOL MATTO: That is also a discrimination. I will read that section. Even in the case of those for whom it is mandatory, it is written like this in sub-clause (1): "When the > assessee is a person other than the company who is required to get his accounts audited under the Income-tax Act or any other law,... " in that case also it is 31st October. You have pleaded that in the case of a company the concession has been given up to 31st December because it is written in clause 1 that where the assessee is a company, it is by 31st December. I think this concession should have been given, to the firms also whos? accounts are to be audited, up to 31st December because in the case of a company, the Accounts are to be audited. Tn the case of those deriving income through business or profession, who do not fall under number one. that is. where audit is not necessary, there it is only; 31st August. There also some concession rf>OTi!d have been given. Honourable Minister, in my opinion the majority of the taxpayers ar$_{e}$ those firms which would fall in this bracket, and there you are giving only one month to them whjreas in the case of companies you are giving four to five months. This point may kindly be reconsidered.

Sir, as I have already stated. I have not studied the contents of this Bill. But I would request the honourable Minister that in future he would see to it that we are given sufficient time to study such Bills. Even in the case of this Bill, which is a Money Bill and which was to be passed by the Lok Sabha first, it was introduced there only on 11th of December. Even the Lok Sabha did not get enough time to consider all the clauses of the Bill. I agree with Mr. Dipen Ghosh on one point—although I disagree with him on other points-^that you have to see whether this new Bill is in consonance with the objectives set forth in the paper that had been distributed to all the Members in August 1986. Some time should have been given but I think he would announce that any suggestion that comes after the passing of the Bill will be taken care of and considered by him and any proposal that is considered good would be brought forth in the Einan: e Bill which would be coming in the next Budget Session.

With these remarks. Sir. 1 support the Bill. Thank you.

4. 00 P. M.

SHRI N. K. P. SALVE: Mr. Vice-Chairman, what happened today can only be described as most unfortunate. The Constitution has designedly made the position of the Lok Sabha in respect of Money Bills, if I may use the word, slightly more advantageous than that of Rajya Sabha. The Bill having been passed in the Lok Sabha, the option was either we do not debate, in which case it becomes law automatically or we at least have the satisfaction of debating and pointing out to the Finance Minister what our views are on the legislative

[Shri N. K. P. Salve]

measure which is now being debated. If they were so serious, if their grievance was so serious, they could have tackled this matter at the level of the Lower House. Had it not been introduced there, it would not have come here. The Rill having been passed there and the Opposition having participated in the debate there, I do not see a valid rationale for them to have left the House. To say that the Ministry or the Government wants to take Parliament for a rid all that is an exremely unfortunate observation which is unwarranted. The Leader of the House is one who is most concerned about the dignity and the procedures of this House.

However, having said this, I have really to say one thing which Mr. Matto has said. It would have augured very well for the Ministry and for the Leader of the House if the Bill had been brought a month ago or three weeks ago. It has been discussed long ago and finalised long ago. Why was it kept pending for such a long time? If time had to be given to people, assessees because of the change of the accounting year, they could have got more time if the Bill had been brought three weeks ago. Well, I would submit, to that extent, perhaps, while I do not at all justify what they have done, their contention has some merit. Really, we have not been able to read and go into the whole matter as well as we should have.

Regarding this matter, this legislative measure which has come, I must put on record one thing. Mr. Vice-Chairman, you have also been a party to the informal discussions which we have been having with the bureaucrats in the process of the formulation of the legislation. For several decades I have been seeing legislative measures being brought, esp"cial1y fiscal legislative measures being brought. it is for the first time that such an open nnproach was kept and the matter was discussed, as a result of which there was rationalisation in advance, before evaluation, appreciate on of that which was supposed to be don. s In implementation of the document to which the Leader of the House has referred to. I must say. when we dis cussed these matters with the officials of the Ministry who were formulating this, we found them extremely reasonable, quite amenable to reason, Mr. Chairman, perhaps, very unlike your and my expe rience in practice. Be that as it may. I want to put that on record.

Now, I want to come to: t he Bill, I have not been able to go through the Bill in very great defaii.,. In fac*. there has been accusation that so far as fiscal legislations are concerned, we have already had over 2. 000 amendments. Every time we go in the process of simplification of a Bill, we only make it more and more incomprehensible and more and more difficult and more and more onerous. In fact, the allegation is that the obscssjon of Parliament for fiscal legislation is so insatiably built that some of thesffy Bills, the entire fiscal law has been despatched into exile, into an area of disorder. Therefore, I look on any measure which is said to be in simplification of a tax law, with very great apprehension and fear. Every time with the same framework, with the same approach, with the same philosophy we were trying to improve. We could never have improved. T must congratulate the Finance Minister. The basic change in the whole approach for which he observes our congratulations is that a bold approach has been taken^ Of course. I do not for a moment accept. 7 that we have reached *nc phis nitra* in that approach. It is a beginning In this approach the basic idea is that there should be greater trust in the assessees and that the assessees should have greater trust in the Department. That is the only way in which any democratic country's tax collection can go on in a satisfactory manner. Frankly speaking T am extremely worried about the resource mobilisation problem which you have also referred to. Tt is this that the ultimate collection of taxation in this country is not keeping pace with the Gross. Domestic Product. Why t should the collection of ultimate taxes have the same progressive ratio, should have the same growth as our Gross Domestic Product? And if that is not remedied, it only means in our entire system

of taxation, there is something wrong. Thi is a larger issue wht: ii *l* do not want to *Bo* -nto at the moment, but there are two or three points to which I want to draw the attention of the Finance Minister very specifically. He has said, we have brought this Bill in implementation of what has been stated in the document for rationalisation and simplefication of the direct taxes laws. May I ask him: why havent they brought the provkion institution of the national court of direct taxes? Was it not *one* of the very important promises given in that document? Why have not they brought it? Tod. iy the Income-tax Appellate Tribunal is the highest authority on facts and on law. And unfoi innately there has been a lobby of lawyers and Chartered Accountant-convassing for tribunals to be kept at their exalted position. It has been in discussion, accepted conclusively and d. The Law Ministry. 1 was told at one stage, was trying to help the Tribunal because every Ministry wants its OWT empire to remain intact. They don't a national court of direct taxes to be formed. And if it is formed, I hope it is directly under the Supreme Court. In administration of justice of fiscal legislation which is so onerous, so cumbersome, so incomprehensible, so difficult we want at this stage a court, a forum, which will not only be a forum that would be a substitute for the High Court, but a forum which wjll inspire respect both of the department and of the assessees. It is most unfortunate that the Income-Tax Appellate Tribunal has lost all credibility with the Department, To my personal knowledge it has no credibility with the Department and with the assessees. Therefore, it is the crying need of the hour and you have not responded to it. That is my charge, Mr. Finance Minister, so far as that is concerned.

The second thing that I want to submit is that there is an institution of Settlement Commissioner. There are few institutions which are as worthless, as useless, as futile as the Settlement Commission. 1 happened to preside over a Select Committee of the Direct Taxes. (Amendment) Bill, which brought in Settlement Commission. I very vocally and vociferously advocated the cause of the Settlement Commission. It was thought that it could be a forum which could boldly and courageously take decisions on matters where erring assessees wanted to come to the path of rectitude, that they woukl have an opportunity to go to the Debarment, pay their taxes and have done with it. But the way the Settlement Commission is working, it is nothing but a huge mill-stone round your neck. You will do much better to get rid of this. What is happening is that all the ex-Chairmen and ex-Members of the Board of Direct Taxes and others are appointed there as the Members. If you are going to provide a sanctuary for retired officials of the Board, it is a different matter. We might provide for them somewhere else. Please don't have this. Instead, if you want this sort of a settlement procedure, give appropriate powers to the Commissioner of the Board and you will find much better results. If there is a dynamic power functioning with the Commissioner, you will have much better results than having these retired people at one place, who are good for nothing and who are useless thoroughly.

I would like to bring to the notice of the Finance Minister—I hove not been able to read very many provisions of the Bill—provisions of a new section 80F. Into that, apart from the taxation of trust, several instituions, whose income was otherwise exemp*, have been taken under 80F. The understanding which we were given at the time of informal discussion, so far as the scheme of taxation is concerned, was that even if it is provided under 80F, there will be no change. I have *one* particular instance in mind in which case there is such a drastic change and if is going to affect adversely the interest of sports. Now, the Sports Minister is here. I am saying something which she, herself, should have taken up with the einance Minister. The earlier scheme was that the income of Federations of Sports— hockey, cricket, football. kho-kho etc. —was exempt. The new income

[Shri N. K. P. Salve]

scheme is that their income is not exempt. Their income is taxable. But they will be allowed certain deductions and deduction is the money you spent in. the year. So, if the Cricket Board in any particular year earned an income of Rs. 25 lakhs and does not spend in that very year, then, you are going to tax r cent. This is not lair at all. You will -please make appropriate changes in this; otherwise 'here will be a revolt in the realm of sports if you are going to tax Federations at the maximum marginal rates, in that every year it is said that you keep your income in these Government deposits and other things. Now, I know that the Cicket Control Board invests moneys in gilt-edged securities, first-class deposits and investments and earn a 15 per cent, 16 per cent and 17 per cent interest. Why should they invest for 8 o_r 9 per cent. Up to the last rupee their accounts are audited. Proper -counts are kept. So far as the Federations of Sports are concerned, please don't put their interests in jeopardy which is sought to he done.

Then, one more complaint I have to make to the Finance Minister and it is a very serious complaint and that is regarding back assessments. In formal discussions it was agreed that law will not be made stringent for the honest taxpayer and more liberal and lenient for the tax-evaders. The existing limitation is 16 years for a- tax-evader. Why is fiat sought to be reduced to ten years may please know? Today for an honest ssessee who gets his books examined and regular as^ssment made unless he is a tax evader—unless he is found guilty of having failed to disclose fully and truly all material factors four assessn ment years is the rule of finality. It was agreed in terms when we went and talked;, the then Finance Minister and the Prime Minisier happened to he Finan-o Minister. Now the rule of finality is for 10 years and for every body the matter will be reopened? before the Income Tax Officer The diffrence is only referrable to the quantum. The quantum is irieleva. it. What is needed is the guilt of evasion after a person is guilty of evasion for 16 years. Don't spare him. Let there be no limit. If if is Rs. 10, 000 let it be opened for 16 years, let if be opend for 20 years. It does not matter. But if the assessee is an honest assessee and his assessment is made within 10 years in time the income changes his opinion and his assessment is reopened. How is thi.; submission to you is, this is contrary to what was agreed to before the Finance Minister, 'he Prime Minister. Then, this is contrary to the entire spirit. Please do not make the law more oppressive, more difficult fcr th? honest taxpayer and move liberal for the tax evaders. What you are trying to do is very skilful. 1 want to point out that the department is wanting to have authority for 10 years to open any assessment any time. Have you considered the possibilities of tremendous corruption in this? M_y assessment is completed and the Income Tax Officer will come and say "Come here, I have found there is something wrong. I am going to reopen the assessment. " Then you are compelled to grease his palm to shut his mou^{J}h? Why are you making this kind of provisions? I not understand. Law after decades of litigation in courts has been finally settled as 1o the circumstances under which a settled assessment can be reopened. Evei-y civilised society abides by t^{n}e rule of finality and that rule of finality for taxation has been finally settled hv the Supreme Court. Everyone knows about it. You wan$^+$ to upset if for what purpose for whose benefit Entirely to benefit the department officers? It is a grave risk. If is a grave danger to which you are exposing yourself. I hope you will look into it and see that it is remedied.

Sir, some of the sections that I looked into, I thought, were very important. I found one of them was missing that is about the national court for reopening of the assessment. Ail that I have to submit to Tiwariji in all humility is he will read it ard an open minded progressive person that he is, would never be a party to any harassment to honest law abiding taxpayer. I am sure he will be willing to consider to make suitable amendments either in the Finance Bill or bring any other amendments to this.

With this I conclude. Thank you.

SHRI BIR BHADRA PRATAP SINGJT (Uttar Pradesh): Mr. Vice-Chairman, Sir, my misfortune is, I am no': a tax expert like you. Salve. Therefore, I will be confining myself to some of the broader features of this Bill. But I feel and I thank the hon. Minister and welcome his seiious attempt at the simplification of direct tax laws incorporated in the Bi 1. While doing so, I would like to o one argument afterwards that the broader socio-economic aspect of th, - mater should have been considered through the windows of tax structure which I find missing. But looking to i' with a narrow and professional point °f view and even jf I am not a tax practioner, my brothers, who are practising tax as chartered accountants or as lawyers would be benefited because I find that this legislation <md th,, manner in which it is being brought in this House will become a paradise for lawyers or chartered accountants. That is my misapprehension and I am making 'his assessment from my little understanding of law and that is why I say, the Finance Minister should think that this piece of legisla*ion may not become a lawyers* paradise because 1 am conscious of the fact that law *making* process by way of amendments time and again is a bad process of law and that oo in four enactments at a time will not be free of complications. But there are many good things also which I will point out hereinafter before I take it as a be ter mode of law making. So far as simplification is concerned, my idea was why the Act of 1961 has not been altogether repealed and comprehensive legislation not brought forward before this House as if has be. n done by an amending process. Bu; this is not for the first time. Since 1961, there have been time and again amendments to these various tax laws and I find that this process of making laws in a piecemeal way or making laws by further amendments makes it more complicated. Therefore, the idea of simplification disappears. Now that much 0nly I will be rendering as a humble advice to my very learned Finance Minister that in future, please do not resort to this type of practice of making a law by amendments. From 1961 till today, you can count the number of amendments. I say it very seriously that it would become a lawyers' paradise or paradise of char, tered accountants. The moment vou give up this process of law making and start making a comprehensive law, the process would be easier. The good 'hing which I want to point out is reposing confidence in the assessee and catching the tax evaders. Now the Bill has proposed a total shift hi the concept of determination of additional tax or refund instead of a concept of assessment of income. it is s'ated in the Objects and Reasons that this amending law is a law for determination of additional tax and the process of refund. Somebody said thi* we would make the repayment the refund, automatic. But the question is, before a refund or repayment is made automatic, the litigation whether it is in excess has to be ended. That will take a long time. What is the surety that before the refund becomes automatic, you will bo sble to determine, in the litigation, whe'her it is in tx-cess or not? When pavment of advance tax was proposed, a lot of arguments were there that our income- tax payment system would be converted intoone or refund. While we are copying the American system, the attitude of

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our tax authorities is not American. There, the Income-tax Officers them selves go to the assessee and suggest as to how he is to be facilitated. I appreciate the learned Finance Minister for looking into this and seeing that refund becomes easier. Otherwise, it will become more complicate. The determination of the question whether it is in excess will be time consuming.

The second thing which I appreciate is the provision that the minimum additional tax $_0$n concealment would be thir'. per cent. This is a welcome step. For concealment. there ther lenient attitude. This shouid be the minimum arid the maximum could be any amount. I also welcome 'he id as of uniformity in the accounting years and deduction for scientific and research institutions. One more thing is, the law has taken care of those fraudulent charitable trusts which are de-frauding us in many ways. There is somebody with a charitable trust. You pass on the 'money lo him. He will get exemption and the money will comr back to you. Or you create your own charitable trust. defraud tax authorities and afterwards divert the money to your own fund. These have been taken serious care of, T compliment the Finance Minister. This will please the honest tax-payer and em-phasise believing him than disbelieving. It has justifiably increased the. cost of evasion of tax my making the penalty for evasion of tax stricter and higher. The evaluation of returns has been made more objective than sub-jtctive. This Bill will go a long way towards the cration of a uniform tax code for all which is the need of the hour. I would like to say only one more thine because th? first bell has gone.

THE VICB-CHAIRMAN (SHRI JAGESH DESAI): It was the final bell also.

SHRT BIR BHADRA PRATAP SINGH; 1 would like to refer to the larger socio-economic aspect of the matter. It should have been leflect-ed in the provisions of this Bill. I expected it thorm the Ffnaace Mini; who has a genuine commitment with a long career. So far as the socio economic aspect is concerned, I will quote only two examples. I find that thi that point of view. It is confined only to financial aspects ignoring the lar-. ger socio-economic aspects. For example. there are a large number of technically qualified young people in this country.

We cannot provide for further in centives throngh our tax laws to stand on their own feet and set up an enterprise. An young entrepre neur who struggles in his best years to set up a small industry is made to pay ihe same rate of interest as the (industrialists. The second example that I would be giving is that of women. In our society today women are treated equal in every manner, y owning property, having rights and other assets. So, could we not use our tax laws to ensure a minimum of equality for the women folk in the ownership of property and other as sets like DDA and LDO? They have already taken some initiative in that direction in Delhi. Similarly, other small entrepeneurs and enterprising people who wil] have to fight big business fish should also have been encouraged. Likewise there are many other large sectors of activity which -— tne tax laws should have and could nave taken care of in the interests of larger socio-economic progress of the country as a whole *(time-bell* joragi) with these words. Mr. Vice-Chair man. I caution our lea'rned Finance Minister. There are many more im portant aspects I wanted to dwell up on but due to paucity of time I have to remain content with these few points. But I caution our learned Fi nance Minister, the process of law making by amendments should never have to be resorted to. making a law *de poyo* afresh.

SHRI RAJNI RANJAN SAHU (Bihar): Mr. Vice-Chairman, I compliment the honourable Finance Mir

nister for placing before the House the Direct Tax Laws (Amendment) Bill, 1987 and I suport this amendment Bill. In line with the thinking of our Prime Minister this Bill has been placed in this House and in the other House with 189 amendments. It is hoped that these amendments will bring about the needed simplification and plug the loopholes. The existing direct tax laws in our country are undoubtedly p'rogressive as opposed to the regressive tax system. But still it has been found that tihere are many discrepancies, as have been pointed out by our learned friend, Salveji. I do agree that we should go in for simplification. But in the name of simplification all the time we are making laws comp'icated by amending them: many a times. Direct tax law has been put to amendment in this House to remove discrepancies ana deficiencies in the direct tax laws and imise evasion of tax. If I remember correctly, the taxation law has been amended 126 times right from •the beginning. This amendment also is before us to simplify the tax structure and also to plug the loopholes as I said.

But this Direct Tax Laws (Amendment) Bill is also creating more and more loopholes by making certain amendments, to which I will come late'r. But now I would like to draw the attention of the honourable Finance Minister to the fact that certain amendments which ought to be there do not find place in this amendment Bill also. As I said, there are as many as 189 sections running into more than 200 pages. There are some sections to which there are amendments and there are some sections which have been substituted and there are some sections wnich have been omitted and new insertions have been made. But all of us know that the object is to minimise inequality in so-cietv and that is why the thrust is jh being laid through this amendment. Now we have to see whether these objectives are going to be fulfilled or not. If we examine throughly the wfliole Direct Tax, Laws (Amendment) Bill, for which none of us had enough time, we will find certain Questions. So far I could see, after going through the Bill. I appreciate to some extent that special efforts have been made by the Finance Ministry to set right the deficiencies and to reduce the volume of litigation. But I still feel that these tax laws are gtetfcing more and more complicated every day and the present structure needs complete overhauling, as Pointed out by nay learned friend, Salveji, and I think that while framing the taxation Code, we should look into this aspect. When I say 'structure', I mean to say that we have to look to the rate of tax and the slab of income on which the tax is levied along with the existing provisions for exemption and the capacity of the people to pay tax. All these things come under the structural changes of ta-xation laws. What we find is that if at the top level income group, the as-sessees avail themselves of all the exr emptions, and they desire more benefits than the people at the lower income level. In other words, with a higher rate of taxation at the top', they would be benefited more as compared to the lower-level people. The top people, whose turnover is in millions. helped with the moneys from *the* financial institutions, lead a princely life and they do not have to pay required taxes. On the other hand, the lower-income and middle-income groups of people pay more taxes.

Then. Sir. the other category is the salaried people. the salaried class, who contribute the maximum to the exchequer without much endeavour bv the Department. I hope tnat by these amendments they are not being deprived of the incentives for their good gesture.

TThe Vice-Chairman (Shri H. Hannmanthappa) in the Chair]

Now, coming to the amendments, I find that tne existing liberal exemptions have not been touched. No

[Shri Rajni Ranjan Sahu]

about the existing exemptions are incentives for investment and savings but the system creates serious distortion in the allocation of savings, because different incentives result in high and arbitrary discrepancies in the effective rates of return in different forms of investments. Concessions for savings are offered. It only favours the richer taxpayer. Thus, section 80C. in the present structure is more liberal, and I agree with our friend that this should not be increased.

Similarly, recently the Government has introduced public sector bonds with 13-14 per ment rate of return, is eligible for exemption un der sec. 80L. Government can intro duce newer and newer concessions is an attempt to attract more and more-funds from the capital market, but the distortions!y effect is also to be kept in in mind. The major draw-back of tne existing scheme is that the incentives are available not necessarily for saving but also for more diversion of funds from one form of investments to another, and that too for mere locking of these fur. specified period of time. The netting principle is not applicable and savings remains untaxed. That is why I have said that these ssions would always favour upper bracket taxpayers to a much greater extent than the ordinary taxpayers.

Now, coming to the provisions of amendments, substitutions and omissions, which have been placed here it is again not looking to the deficiencies which have occurred in the past and we are not taking lessons from past i experience. When we look througn the amendment of Section 10, though it is a progressive amendment, yet the exaroiptions which are as many, as under this section alone, is 46 which give rel'ef to the asses-see, but most of them have become redundant and requires discontinuation.

Sir, I fully appreciate the Ommission of sections 11, 12 and 13. I congratu late the hon. Finance Minister for taking this revolutionary step. But the most unfortunate section in all the amendments is section 54 where again 54-A has been inserted. Mr. Vice-Chairman, Sir, this section is in respect of Capital Gains and is connected with section 45. This has beerik amended 7 or 8 times. So far as I remember, originally this section was inserted in the Finance Act. 1964, that is, w. e. f. 1-4-64, but immediately sub-sections (2) to (4) were omitted in 1966, that is, from 1. 4. 66.

Again this provision of capital gains was amended by the Finance Act, 1970. Again the sections 53, 54, 54B and 54C were substituted by the Finance Act 1972, i. e. from 1st April 1973. Subsequently, the section which was added in 1972 was omitted by the Finance Act, 1976, i. e. from 1st April 1976. Further, a new addition, of section 54D was made in 1977 Finance[1] Act i. e., from 1st April 1978. This was again substituted with section 54E by the Finance Act, 1982. Lastly this section was substituted with 54E and 54F by the Finance Act, 1987. which is to be inforced from 1st April 1988. Again this section is being amended and a new section has been provided as section 54A. Now we have to see how long this section will remain intact. I think the relief of tax on capital gains on transfer of property or purchase of property always provides loopholes fqr^ avoiding tax Theefore. the GovernmeiuT should come up with a firm proposal, while simplifying the tax laws which is expected to come before this House in the fear future. Piecemeal amendments always give loopholes and are detrimental for a developing nation.

Sir. I would suggest a few sections which ought to find a place in these amendments. Section 10 (23BA) relates to income of body established for 'administration of nub lie religious or charitable Trusts or endowments, etc. Keeping in view the enormity of income and their prevailing misuse, the j exemption of incomes of bodies or authorities established for administartion of reli gious trusts and endowments, etc.. should be subjected to the same restriction as is

provided in Section 12A(b). The income of the. institution be allowed the benefit of exemption only if it is subejcted to a compulsoiy audit.

Another section is 36(1) (IX). It relates to expenditure for promoting family planning amongst employees. The suggestion is that since there is hardly any bona side expenditure incurred by companies on family planning and since the provision is generally misused, the benefit of deduction of expenses as provided in Section 36(T(IX) should be withdrawn. However, in case it is to be confined, there is no justification for granting the benefit to the companies only. It should be given to any other assessee also, maybe it be an individual, or a firm or an association of persons, etc.

The next suggestion relates to Section 10(24) regarding income of trade union under the specified heads of income. Trade Union movement in our country is[r]not;. healthy movement. There is a multiplicity of trade unions and inasmuch the workmen are attached to a number of unions, the basic utility of trade unior movement is diminished. In fact, there is a widespread feeling that trade unioc movement has taken our country back by fifty years. The productivity in industrial undertakings is also generally affected under the seafist leadership of trade unions which is mostly interested in self-aggrandizement. In these circumstances, the suggestion is that income from^sources mentioned in Section 10(24) be exempt to the extent it is actually employed in replenishing the relationship between employees and workmen and between workmen and workmen, but out of the remaining 25 per cent be allowed to be accumulated and 75 per cent be taxed.I appreciate the other amendments. Then; is a proposal to make the accounting year and the assessment year as one. Tf this is the case, you should give more time to an assessee for filing the returns. At p-esent six months' time is given. So, it should be a minimum of nine months. T also agree that the Settlement Commission should be abolished, and the Appellate Tribunal should be strengthened to avoid litigation and *to* give p[r]oper hearings to the assessees.

With these words, I thank you, Sir.

SHRI RAMESHWAR THAKUR (Bihar); Mr. Vice-Chairman, Sir, I rise to welcome and support the Direct Taxes Laws (Amendment) Bill, 1987. I congratulate the Government, particularly the hon. Finance Minister for having brought this progressive Bill. This Bill reflects the philosophy, direction and determination of our leader and the Government towards socio-economic and political goals with a view to subserve the aspiration of the people. The Bill seeks to fulfil the assurance given by the hon. Prime Minister in his Budget speech early this year. The Bill signifies not only several positive steps for simplification and rationalisation, but a bold and pragmatic direction towards restructuring of the Direct Tax laws after 25 years since the enactment of the Income-tax Act of 1961 and similarly the Wealth-tax Act and Gift-tax Act, as passed earlier.

Sir. this will be considered as a very historic document in the Direct Taxes law and I take this opportunity to compliment all the concerned officers of the Ministry of Finance, particularly the Chairman of the Central Board of Direct Taxes, Shri Tikku and his team of officers who have done a very commendable work and devoted very considerable time during the last two years to bring about this desired rationalisation and simplification about which we have been talking for a number of years. This Bill also takes into consideration the various suggestions made by a number of Committees. We know that a number of Commissions and Committees were appointed by the Government right from the Tyagi Committee in 1958, the Choksi Committee, and the latest one. the L. K. Jha Committee, and a number of suggestions were made. Some of them, have already been implemented and the rest of them have com in this. This also takes into consideration the suggestions made by the hon. Prime Minister much earlier when he inaugurated a seminar arranged by the AICC in which he made very positive recommendations then as a Member of Parliament and General Secretary of the ATCC that there should be one Direct Taxes code, there should be one return and the return should be ac-

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cepted, and if at all necessary the assessee should visit the office only once. Now these expectations have taken some time and now are being fulfilled. We had earlier discussed in the form of a Long-term Fiscal Policy which was also a discussion paper circulated to all the Members of Parliament. And we had a lot of opportunity to have detailed discussions and debates in various forums, Institutions like the Institute of Chartered Accountants of India, the Chambers of Commerce, intellectuals, professionals and Members of Parliament in the Consultative Cornmittee and many other groups had an opportunity to discuss these matters. And this Bill is the result of a very thorough discussion and consensus efforts and conclusions which have been implemented in this Bill and given a practical shape. Sir, the main objectives of the Bill can be seen from the Bill itself. One of them is reposing trust in the tax payers, which is a very important thing, and a very important departure. Then the other objectives are voluntary compliance, taxation of real income, increasing cosit of avoidance, effective deterrent against evasion, preventing leakage of revenue, removal of uncertainties, uniform treatment by cutting down subjeclive decisions which were always being criticised from many forums. Then shifting from the concept of assessment of income to the concept of determination of additional tax or return. This is a very importan, change, structural change. Then reduction in iiti gation. deletion of several outdated provisions and rationalisation and regrouping of several sections to bring them in proper sequence and ensure uniformity in the provisions of three direct tax laws, namely, the Income-tax Act, the Wealth Tax Aot of 1957, the Gift Tax Act of 1958 and also the Companies Profits Sur-charge Act of 1964, and restructuring of direct taxes;. pave the way for the enactment of a single direct taxes code by March 1988. And then encouraging growth and development of the economy thro-ough stable tax laws, opportunities for savings and investments, and the last one I would say is the starting of a new era of mutual confidence and a new relationship between the tax-payers and the 'tax-gatherers.

Apart from the aforesaid laudable objectives some of tde more specific 'and welcome features of the Bill are that the exemption limit of gratuity has been increased and the delineation of the monetary ceiling on the allowance of bad^ debts in the year of writing off for which a number of cases were there from various uniform accounting year with staggered dates and then acceptance of income-tax return in all cases excepting a certain number of cases in which there will be scrutiny and ithen double taxation being 'avoided in the case of firms.

Now, Sir, I would like to deal quickly with certain specific clauses of the Bill. So far as *(he* first one is concerned, it is regarding rationalisation of designation of various officers. Only in this c'ase T., have one suggestion to make, and I want T to ask whethe, - it is necessary that we should keep tthis clause here only or in a!I cases. We say that we have got the officer Of different ranks. Then we say director-general or the chief commissioners of income-tax. Thus I feel that 'though it may be n inistratively but from the simplification point of view two parallel designations in various areas should be avoided and I think that it is time now when the budget is being drafted that this duplication of various officers names or designations""^ should not be there. What I want to say is that some designation should not be described by two different names.

So far 'as the year is concerned, there has bee$_n$ some confusion and some Members have said and even my colleague just now has said 'hat we should have nine months. We have got a very good system by which the financial yea. - will also be the accounting year. Then ^{we} have got certain change$_s$ made wWch the business chamber i, n the n'ame of seasonal industry, in ithe name of certain other categories like customs and habits and also in the name of religion and so ^{on} have not favoured. We have said it and

we are all convinced if we see the rationale that this is the one forward step w'oich is to be utilised for plugging the loopholes and there will be only one accounting yeai- now on the basis of which the fax returns will have to be filed. And then a very reasonable time period for the as-sessees and companies has been fixed, which is nine months. They have been
. given nine months up to 31st December. In the case of assessees other than a company, where auditing is required to be done by 31st October, it is a reasonable time. Even now the companies 'are required to get the company's audit done and it normally done within six months, up to 30th September. Next one is deriving income from business or profession, where audit is not required, it is 31st August; iit is also reasonable. It gives more time for preparation of accounts. In other cases, it is up to 30'h lune. This is a reasonable time and we should welcome it and ithere should be no confusion. *m* sure this one accounting year will
solve m'any problems and revenue of the department will also increase.

Section 24 is about deletion clause for dabbing of income of the spouse and rthe c'li d. This is a progressive step and this will help matters and there will be no evasion of tax. In the cise of bonus, clause 11, T think bonus payment basis will be ithe real basis and bad debts written off would be based on it.

Section 80F is a very good clause. We 'n. ive provided in sections 11-12-13 and we have 80G and now 80F with simplified provisions, which appears to be quite rea-sonable and sound. This is good. In the case of assessment of persons and part-ners, I think it is 'a bold and logical decision which has been taken. We used to have two assessments and the feeling was, there are double taxations; one on the firm and the other on the partners. We have rationalised it; professional firms have been distinguished from the busine-s firms, and categories and amounts have been specified. Some hon. Members expressed fne view that the limits seem be on the lower side and suggested if it could be raised, that is, Rs. 50, 000 limit could be raised to Rs. one lakh and the higher limit could be raised still further.

In regard to wholetime working partner, if somebody gets something as a partner-I hope the hon. Minister would clarify it—and also gets some income by way of interest or some casu'al income, whether he will be entitled to get the benefit. There i's a little confusion. Technically he may be disqualified if he gets some small income from other source. If it is a regualr employment or gets regular salary from two establishments, it is all right; but if it is only one establishment and he gets some casual income from some other source, whether he gets the benefit or not, is a matter to be considered.

Then under sections 75-76-77, benefit of set-off and carry forward of the share of losses of a partner or profits are there. But probably, the share of loss of a partner will not be allowed to him in future. This raises a question whether it means that wholetime partners will continue to have profits and will continue to pay income tax on remuneration received by them from the firm, and any share of loss will not be taken into consideration in the hands of the partners, as if there will be no losses. Losses also have to be carried forward for assessment. We cannot presume that the partnership firm will never have any loss. I_n any business or profession, there may be profits; there may be losses. Therefore, it must be provided that whether there is a loss, it will be carried forward and should be set off. This matter needs consideration.

In the case of partnership firms, suggestion has come whether it may be provided that in case of firms and partners, remuneration will be deducted only in the assessment of one partner. Now, in 5 P. M. lieu of the restrictions on the payment of remuneration of the partners imposed under section 40 (b) (v), it may be provided that such remuneration will be allowed to be deducted for the assessment of the firm provided it does not exceed the maximum remuneration.

There is one more suggestion in regard to book profits; to take income only on the

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basi$_s$ of book profits. We have shifted from the concept of deemed income to real income. The question is whether in that case it would be advisable to take book profits. This is a matter to be considered. A closer look should be given to it and, if possible, we can make changes in this regard.

There is a suggestion in regard to taxation of trusts. There may be hardship in $_t$he case of.. *(Time bell rings)* Sir, we hav$_e$ enough time. Total prohibition of set off and carry forward and set off of business losses and disallowance of certain kind of business and expendjtue will act as a detrimental factor to the financial affairs of trusts as 'some of the trusts are compelled to carry on such activities for reasons beyond their control. There is a suggestion that th$_e$ trusts should be allowed to carry forward such losses; however, the set off could be claimed only against income derived from business. This is a matter which needs consideration to avoid any undue hardship to charitable trusts.

In regard to peyment by cheque; it is now Rs. 10, 000 from Rs. 2. 500. This is a good improvement and T comment this. I would only suggest that this should be enforced effectively. Section 64 deletion seems to be reasonable.

There is one suggestion in regard to clause 80F; I mean, section 80F. Audit has been proposed i^n the case$_s$ where the income is above Rs. 50, 000. The question is why there should be audit even if it is more than Rs. 50, 000? It used to be Rs. 15. 000 and it has now been raised to Rs. 50, 000.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Mr. Thakur, pleased conclude now.

SHRl RAMESHWAR THAKUR: This should not have been done. Appointment of nominees on the Board of Trustees or the Governing Body. Is it advisable for the Government of India to enter into the affaiis of trusts and be a party 1$_0$ the management? They can certainly scrutinise and the public trustee is there I do not think it is advisable to think in terms of nominating a person on the Board of Trustees. This requires a fresh look.

The other provision is section 80L. Here, some elaboration has been made to cover income from mutual funds. This is good. *(Time-bell rings)* There are one or two points, very important points. Sir, we have enough time. There i$_s$ nobody else. I am the last speaker: Four hours have been allotted for this.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Your party has given you ten minutes. You have already taken eighteen minutes. Please conclude now.

SHRI RAMESHWAR THAKUR: I will out short. I have many points. As there w no time, I will give my suggestions to the hon. Minister. There are some areas where there may be unintended hardship. T will, therefore, make just one or two observations.

One hon. Member suggested about the Direct Taxes Code. I think this is a must. I am sure, the hon. Minister will ensure that this comes by the time the next Finance Bill i$_s$ brought forward or there is a separate enactment. This *h* part of the t°t*1 restructuring and it must come. Then, about the Income-tax Appellate Tribunal. I am not in agreement with my hon. friend that this has lost its credibility. Tt ha$_s$ done commendable work. The question is not whether it should be substituted. The question is very simple. Tt is still open for the hon. Minister to consider. The question is whether all the cases should go to the Tribunal or in certain cases, whether the as^essee^ should have the freedom to go direct to the National Direct Taxes Court. Secondly, the question is whether there should be a limit. —specified amount, —up to which cases can go to the Tribunal and other cases should go to th; court itself. These are different questions. So, it is not necessary to say that the Income-tax Tribunal is not doing good work. I suppose, we should take the realistic view of th? actual working of the department, we should not try to belittle its

working. It is, however, open for the hon. M nister to consider simplification.

Similarly, in regard to Settlement Commssion, with all its limitations, it is doing commendable work. They have done very good work and they are doing so many other complicated cases on simple basis. Therefore there is no use making observations about the Settlement Commission.

The other question was about reduction of the period from 16 years to 4 years, 7 years and 10 years. I think it is a reasonable period. The sequence is Rs. 50, 000 and above, Rs. 1 lakh and above, and I think it is a reasonable proposition. This is an improvement, we should accept it.

Then, it is no use saying that the amendments have brought complications. It will bg gross injustice to the entire document. I would like to conclude by saying that this is a real and genuine effort towards simplification. It will prove to be a historic document. This is a document in which very sustained work has been done. All the opinions of experts and others have been taken. It is a real piece of simplification and improvement in the existing taxation laws and I am sure this will be the best code for unified direct taxation. When our members and other public persons will go through this document, they will appreciate it. If there are any hardships, I am sure the hon. Minister will give due consideration and will bring forward such changes as are considered necessary in the next Financial Bill or in the Code itself when it is brought in March, 1988.

SHRI NARAYAN DATT TIWARI: Sir, I am really thankful to all my colleagues, Ion. Members of this House, who have participated in the debate. I am especially lhankful to those Members of the House who are very well-versed in taxation laws, -ather they are experts in taxation laws, our esteemed Member from Maharashtra, Chairman of the Finance Commission, esteemed Member from Gujarat who has taxation laws on his tips, esteemed Member from Bihar who has just now spoken, who is himself a very knowledgeable and well-known taxation expert, our young colleague from Azamgarh and again from Bihar. I am very thankful to them. I am also thankful to the leader of the Anna DMK and my friend from Jammu and Kashmir for their various suggestions.

Sir, when I took over the Finance Ministry, I was briefed of ail the processes and activities that were going on. I found that this was one piece of draft legislation in the field of direct taxes which should receive my prior attention. During my discussions with thg Prime Minister, because he was the Finance Minister, he also mentioned to me that this was one of our priorities in our long-term fiscal policy.

Sir, you must have seen that even though the debate has been rather brief—of course, it has taken three hours or so—it has thrown up the real fact that the provisions that we find in this Bill have been discussed time and again throughout the country. Several experts, lawyers, trade and business organisations, Members of Parliament and even my esteemed distinguished colleague from Maharashtra, were consulted. Other Members were also consulted; hon. Member from Gujarat also has mentioned this. So, this Bill has been drafted after intense efforts of our Department for the last two and a half years and more ever since the long term fiscal policy was laid on the Table of the House. Now if we had delayed this measure, then we would have perhaps to come only after the President's Address, then the Railway Budget, the General Budget, sometime in May. How much time H-ould have been lost and the same problem would have been there. I admit that of course it could have been given more tim~. but there are other priorities also. I know this House debated endlessly so many other issues which perhaps we. in our wisdom, thought were more important and we devoted so much time to them. Yet we knew all the time that the Direct Tax Law was coming. It had to come. Therefore, while I share the grievance of some hon. friends that we should have -allotted more time to this, yet I am sure that whatever we are doing is a must because for the first time in the history of Income Tax Act, this document simplifies the law an3 declares a policy of reposins trust 'n the taxpayer so as to ensure voluntary compliance. Therefore in this regard this is not one °f the 126 amendments: it is a major 'egis-

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lation. In fact throughout, in a!! the budget debates, Members of Parliament have been saying in this House and in the other House thai we should repose trust in the tax-payer to encourage voluntary compliance. Therefore it is total shift from the concept of determination of additional tax or refund, as the case may be. From now on it is 'a total shift for; he Income Tax Department also. So this is a major total shift, an honourable trial 'and a new concept.

Again its objective is to rationalise the scheme of taxing of income to ensure that income earned during the same period by the same category of tax-payers is subjected to tax at the same rate. This is anofhe-- im. portant feature of the Bill.

Then some of the Members tought that perhaps it is not so stringent on tax evasion. No. it is not so, Tf you look into it, there are provisions relating to mandatory interest for late filing of returns, non-paymentl shortfall of advance tax, concealment of income, failure to furnish statutory statements or give evidence etc. So care has been taken to penalise all defaults that can be committed under the law. Therefore in this regard, our objective is to omit a large number of artificial deductions on the one hand and disallowance of business expenditure actually incurred on the other. This is a major step where we have tried to deter avoidance of tax. There is mandatory additional tax at the rate of 30 per cent of income concealed. As my hon. friend from Gujarat mentioned, this is a major step by which the element of corruption that may be there at any level has been reduced because of this particular provision. *(Interruptions}* T am sorry he is from Maharashtra. He is one of the esteemed parliamentarians of India, hailing from Gujarat and representing Maharashtra.

Then there is a basic thing. The hon. Member from Bihar has mentioned about these exemptions and deductions by which they are avoiding tax. Now a representative of the Central Board of Direct

' Taxes will be on the trust. For the first time we are ensuring that there is a Board representative on the. charitable trusts so that they cannot misuse. This is a provision of deterrence because th: Board nominee will be there. Again we have provided administratively that all taK exemptions will be monitored by the Directorate-General of Tax Exemptions which will ensure uniform application of provisions regarding the assessment of charitable institutions. It will monitor the work in this regard of income tax officials all over India so that the Board itself is not involved in thousands of new cases. Therefore, a Directorate-General of Tax Exemptions will go into every thing so that this does not become 'a shelter for tax evaders and the money that is provided for in this trust is really spent for the causes, religious, charitable or whatever it is, for which the trust is established.

Another major objective is to make the tax law effective by preventing leakage of revenue through instrumentalities of numerous taxable entities. So many entities are created. So, this law prevents leakage of revenue through its instrumentality.

Another objective is to remove uncertainties in the matter of assessments by cutting down areas of subjective decisions of tax authorities, to ensure uniform treatment of persons similarly placed and to reduce litigation.

The seventh major objective is to ensure uniformity to the extent possible in the provisions of the three direct tax laws to pave the way for enactment of a single Direct Taxes Code. So the next step will be to have a Direct Taxes Code. Once this Bill has the blessings of this House, it will be a major step forward for us to have a Direct Taxes Code, whi^h is our objective.

Now, many points have been made, many suggestions have been aivei. T would certainly like to assure the honourable Members that I will certainly look into all these suggestions made by mv honourable friend from Jammu and Kash-[1] mir and other friends. We will bok into

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them and will come to this House again if considered necessary, but certainly I won j like to make some clarifications now.

Now, a question was raised by the ho. i-u le Members from Maharashtra—he is the Chairman of the Finance Commission also—as to why we are not provid-i'mg:˙ or a National Court of Direct Taxes in this Bill. Now you know that it is not very reasonable, it does not look very good that we should provide for a Natio-iia] Court of Direct Taxes with the stature of a High Court by this Bill. It would require a separate Bill, which is now in the final stages. It was 'a major decision. It took some time to process it, to get advice, etc. Now it is in the final ₛtage and it will come as a separate enactment and not through the Income-tax Act. It will be the National Court of D'rect Taxes Bill. It is now before the Cabinet ; md I hope that we can bring it forward Sometime in the Budget Session. So, it is a separate Bill. It ca. nnot just be a mutter here in the Income-tax Act. Because it has the stature of a High Court, we are advised that we should have a separate Bill for this. So, we will bring forward a separate Bill on this.

There waₛ another question regarding assessment, about ten years and all that. 1 may make it clear to the honourable Member from Maharashtra, who referred to it, that there will be no re-opening of accounts after four years unless there is i non-filing of returns by taxpayers or failure to disclose material facts necessary for assessment. It is made clear in the proviso to section 147 which is reflected in rlause 54 of the Bill. So it is not as he. ^id—T might make it very clear.

ding searches and seizures, I can -assure the House that our Department is vigorously conducting the searches. You cal them raids, but I would call them searches in the law. T would give only one. statistic. Between the period 1st January 1986 and 30th November 1986, our Income Tax Department had 6, 176 sear-nade in the country and the value of the seizures was Rs. 83. 77 crores. This vear, from 1st January to 30th November 1987—the same period as last year— the number of searches is 7, 517 and the total value of seizures is Rs. 104. 86 crores. The number is more and the value is more in this year, up to November, 1987. We do not make a fuss of it. We do not over-publicise. But this work is going on thoroughly and rigorously and vigorously.

SHRI GHULAM RASOOL MAT! That is what is needed.

SHRI NARAYAN DATT TIWARi: You know, the number has gone up in the same period, from January to November, from 6176 to 7517 and the value has gone up, and I am sure that the Department wiii carry on without fear and favour. We have no list. Whoever is an offender, big or small, must be with under the law. Under due process of law prosecutions mist be launched. There is no list. We are not against anybody. We have nothing against any person.. But if one goes against a-law, one must be dealt with under the law, whosoever he is. That is our directive to our Department, "Don't come to us. Please do your duty. And whosoever comes under the ambit of law, please proceed against him. " 1 do not say that in such a big country a list should come to me and that I should know whoever is being raided. That is not the way of ours. That is why the results are there today. If TOU see the papers, everyday you will find gold seizures now. That is one of the reasons why the gold prices have gone up. There are numerous comments that the gold prices have gone up because of the very active work that is being done in the field of anti-smuggling of gold and narcotics and all that. That is one of the reasons. So. the number of searches is going up, and the number of prosecutions is also going up.

One important thing is that the decisions are taken by courts. When we are saying that prosecutions are not being done, decisions are not being taken, we are, really criticisms: courts that they are not takine decisions. But. still, if you see. the important thins is the rate of success in cases is about 60 per cent. Tint is the mnin thinrr. TTte rate of success in prosecutions about 60 per cent. That is how well thev nrosecute. Tn spite of the mnchirerv we have, the ra'e of success of nrosecufion is 60 per cent..

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There was a case that we have brought down the time of filing °f returns. In no case have we curtailed that time allowed for filing returns of income. The time for filing returns of income for companies was extended due to the need for audit of large business houses to stagger the pressure on chartered accountants so that they cannot complain that they were not given time. The audit is complex. Therefore, we have given them time.

Again there was some talk about our Department's functioning and all that. But, 1 must say that the cost of collection as a percentage of income-tax collection, has remained about 2 per cent all through the last two years- That is what the Public Accounts Cornmittee report has mentioned. The cost of collection on an average, as a percentage of tax collection, has remained 2 per cent. Therefore, we cannot say that the cost of collection has gone up.

There was another question, perhaps from my esteemed friend from Azamgarh about wilful concealments. This is taken care of by the provisions relating to prosecutions which are in addition to the mandatory additional tax provisions. The provisions are there in the Bill regarding this.

Regarding exemptions, these are being reviewed by the Study Group of MPs who are Members of the Consultative Committee, under the distinguished chairmanship of our veteran economist Member. Shri T_. K.. Tha. Still the work is going on. T am told that even today a meeting was held. We are going to have a Direct Taxes Code ultimately. That is our ultimate objective. So, that Bill is a major step forward for that. And if there are any changes to be made, we will have time for that also. I would not say that we should go in for daily amendments, but if there are any changes required, we will have time to test those provisions. But I am sure most of these provisions will be generally acceptable. But for the accounting year, we have to give enough time to all the companies, persons and individuals.

Again regarding capital gains, ' a refer; ence was made by my distinguished friend from Maharashtra. Section 54(a)- gives relief of taxes in the cases of capital gains on transfer of property held under trust for charitable and religious purposes and nothing else. It is only for the property held in trust for charitable or religious purposes by certain institutions covered by Section 80F.

AAs I said earlier, other matters of importance are being gone into by the Committee which has been set up by the Consultative Committee and we will also appreciate any other suggestions received from the hon. Members. They will be certainly considered by us in all seriousness.

I am very thankful to this augest House for having listened to my points patiently and I am sure the House will certainly return this money Bill to the Lok Sabha. I am sure this measure will certinly go a long way in the history of Direct Taxes" reforms, as a very reasonable and progressive measure.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA); The question is:

"That the Bill further to amend the Income-Tax Act, 1961, the Wealth-tax Act, 1957, the Gift-Surtax Act, 1958 and the Companies profits Surtax Ad, 1964, as passed by the Lok Sabha, be taken into consideration. "

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): We shall now take up clause-by-clause consideration of the Bill.

Clause 2 *to* 189 *were added to the Bill.*

Clause 1, *the Enacting Formula and the Title were added to the Bill.*

SHRl NARAYAN DATT TIWARI: Sir, T move:

"That the Bill be returned. "

The question was put and the motion. was adopted.